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ABSTRACT

The problem of arrests not ending in conviction is described in terms of its magnitude and costs. Three major aspects of the role of the police in influencing what happens after arrest are studied. Factors such as tangible evidence and witnesses are influenced by the time between the offense and the arrest. The characteristics of the officers whose arrests end in convictions are contrasted with those of other officers. Differences between arrest criteria and conviction criteria are examined from the context of the legal and institutional framework within which they are processed. Findings are discussed in terms of innovations such as the giving of legal aid by the Office of General Counsel to the entire police department and members of the police-prosecutor teams. Such innovations require a broader perspective of the officer's role than has been traditionally assumed by the police. (BN)

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ED160925

Publication 4

Prosecutor's Management Information System

What Happens After Arrest?

A Court Perspective of Police Operations in the District of Columbia

National Institute of Law Enforcement and Criminal Justice
Law Enforcement Assistance Administration
U.S. Department of Justice

U.S. DEPARTMENT OF HEALTH
EDUCATION & WELFARE
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Publication 4

PROMIS Research Project Topics:

1. Overview and interim findings
2. Enhancing the policy-making utility of crime data
3. The repeat offender as a priority for prosecutors
4. **Police effectiveness in terms of arrests that result in convictions**
5. The prosecuting attorney as a manager
6. The high-fear crimes of robbery and burglary
7. The low-conviction crime of sexual assault
8. Prosecuting cases involving weapons
9. Prosecution of such "victimless crimes" as gambling, prostitution, and drug offenses
10. Scope and prediction of recidivism
11. Geographic and demographic patterns of crime
12. Impact of victim characteristics on the disposition of violent crimes
13. Female defendants and case processing
14. Analysis of plea bargaining
15. Analyzing court delay
16. Pretrial release decisions
17. Sentencing practices

What Happens After Arrest?

A Court Perspective of Police Operations in the District of Columbia

Brian Forst • Judith Lucianovic • Sarah J. Cox

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NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE

Blair G. Ewing, Acting Director

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

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INTRODUCTION

As a research agency, the National Institute of Law Enforcement and Criminal Justice is interested in exploring new perspectives that promise to add to our insight into a particular area of criminal justice operations. This report—the fourth in a series emanating from Institute-sponsored research on the data stored in PROMIS (Prosecutor's Management Information System)—helps to illuminate a crucial period in the criminal justice process: "what happens after arrest."

The researchers indicate that examining how many arrests actually result in convictions offers a more meaningful gauge of performance than simply looking at the total number of arrests police officers make. In Washington, D.C., for example, the study found that more than half of the arrests resulting in conviction were made by 15 percent of the officers who made arrests in 1974—a group the researchers labeled "supercops."

The Institute agrees that the rate of successful arrests is an important criterion for judging the quality of an officer or a department, but, as the researchers note, it is by no means the only one. Although arrests are a particularly visible police function, an officer performs many other important tasks not as easily quantified or measured. The ability to defuse potentially violent situations, for example, is an important police skill. Although no arrest may occur, this sort of peacekeeping ability certainly would be one of the attributes of a good police officer. Given this context, the term "supercop" is, perhaps, best understood as a rhetorical device designed to underscore their point that arrests leading to convictions are an important index of police performance.

This study complements current research sponsored by the National Institute and by other organizations. One of the most noteworthy efforts is the Kansas City Response Time Study, which is mentioned in this report.

Researchers in Kansas City are investigating the relationship between police response time and such outcomes as on-scene arrests, availability of witnesses, citizen satisfaction, and the frequency of citizen injuries resulting from both criminal and non-criminal incidents. A five-year project, the study has collected data on 7,000 calls for service, distinguishing among Part I crimes, Part II crimes, and other calls for police services. To date, only the information on Part I crime has been analyzed.

Although the PROMIS research and the Kansas City study represent different perspectives, the findings suggest some common threads. The response time study, for example, has found that prompt citizen reporting of crimes is as important as rapid police response in determining whether a suspect will be arrested and witnesses available. While the PROMIS research concentrated on cases that resulted in arrests, it reported a similar finding: the chances for conviction are increased if an arrest is made soon after a crime is committed. Thus, the two studies underscore the need for citizens to report crimes promptly if arrests and convictions are to follow.

Both the Response Time Study and this report suggest new ways of looking at police operations. The police departments that cooperated in these research efforts—the Kansas City, Missouri, Police Department and Washington, D.C., Metropolitan Police Department—deserve a special word of thanks for their willingness to participate. The results will help to expand the opportunity to improve police operations throughout the country.

Like much research, this study raises many additional questions and points the way for future investigation. We need to find out, for example, whether other police departments exhibit the pattern found in the District of Columbia, where a very few officers make the majority of arrests resulting in conviction. We need to know much more about those officers. We also need to know much more about recovery of physical evidence and witnesses—two factors this study found to be related to obtaining convictions. The Institute plans to sponsor research to follow up on these leads in the coming year.

Blair G. Ewing
Acting Director
National Institute of Law Enforcement
and Criminal Justice

FOREWORD

This Institute for Law and Social Research (INSLAW) study confirms a great deal of what many experienced investigators who follow cases in court have observed:

- ". . . that the police have much to do with what happens after arrest."
- "When the arresting officer manages to recover tangible evidence, the prosecutor is considerably more likely to convict the defendant."
- "When the police manage to bring more cooperative witnesses to the prosecutor, the probability of conviction is . . . significantly enhanced."
- "When the police are able to make the arrest soon after the offense—especially in robberies, larcenies, and burglaries—tangible evidence is more often recovered and conviction is . . . more likely."

The study makes it very clear that the performance of the arresting officer/investigator is crucial to successful prosecution—a conclusion that is at the very foundation of the FBI's role in the Federal criminal justice system.

What is especially important about the findings of this study is that they cast new light on questions that have been raised recently about the value of police investigations. While much of the work of investigation is tedious and turns out, upon hindsight, not to invariably produce an arrest, it is all too clear that a substantial benefit of police investigation reveals itself *after* the arrest is made.

Many law enforcement officials, as well as those who have analyzed police operations, have long been somewhat preoccupied with a perspective that does not extend beyond arrest. Taking a larger view is not only an appropriate means of improving police effectiveness, but it is obviously a necessary condition to make the entire criminal justice system more effective.

We in law enforcement should also be concerned with the study's finding that a small number of officers make a majority of the arrests that lead to convictions. Our concern should center on the police reward system—our promotional policies—as well as on the need for specific kinds of training.

More often than not, the most productive arresting officers and investigators are promoted to administrative or command assignments which tend to take them "off the street." Clearly, we should reexamine our reward systems to ensure that many productive officers are promoted or otherwise rewarded, but kept on the street where they are needed as a vital element in the war on crime.

Furthermore, there are training needs that must be addressed in terms of: improving the quality of arrests; decreasing the time between offense and arrest; improving evidence collection and processing; and gaining and maintaining the cooperation of citizen witnesses and victims.

This report brings us a long way toward an understanding of the importance of a broader perspective of police operations.

Clarence M. Kelley
Director, Federal Bureau
of Investigation
Washington, D.C.
July 1977

PREFACE

In keeping with statements of previous commissions, a 1973 report of the National Advisory Commission on Criminal Justice Standards and Goals highlighted a basic idea on which an effective and evenhanded criminal justice process depends: "Official judgment in criminal justice, as in other policy areas, is not likely to be sounder than the available facts." (*Criminal Justice System*, p. 2.)

The publications of the PROMIS Research Project present findings derived from what is probably the richest source of criminal justice facts ever gathered within a jurisdiction: 100,000 "street crime" cases (felonies and serious misdemeanors) processed by District of Columbia prosecutors over a six-year period. Up to 170 facts on each case are stored in PROMIS (Prosecutor's Management Information System), facts that will fill the information gap that has long existed between arrest and incarceration, a void that has seriously impeded informed decisions by policymakers in most jurisdictions.

Exploiting these facts about the District of Columbia, staff members of the Institute for Law and Social Research (INSLAW) have analyzed data that arose out of normal operations and have generated a wide range of findings pertaining to what some observers regard as the criminal justice system's nerve center—the prosecution and court arena. This empirical research has yielded recommendations regarding criminal justice priorities, policies, and procedures.

Funded by the Law Enforcement Assistance Administration, the PROMIS Research Project is a demonstration of how automated case management information systems serving the prosecutor and court can be tapped for timely information by which criminal justice policymakers may evaluate the impact of their decisions. The significance of this demonstration is by no means restricted to the District of Columbia. At this writing, 69 state and local jurisdictions throughout the nation have implemented PROMIS, or are planning to do so. In the foreseeable future, PROMIS is expected to be operational in as many as 100 jurisdictions.

Hence, many areas in the United States are, or soon will be, in a particularly advantageous position to benefit from the types of insights—and the research methodology employed to obtain them—described in the reports of the PROMIS Research Project. There are 17 publications in the current series, of which this is Number 4. A noteworthy feature of this series is that it is based primarily on data from a prosecution agency. For those accustomed to hearing the criminal justice system described as consisting, like ancient Gaul, of three parts—police, courts, and corrections—the fact that most of the operations of the system can be assessed from the perspective of an agency usually omitted from the system's description may come as a surprise. The major topics addressed by these publications are summarized below:

1. *Overview and interim findings*. Presenting highlights of interim findings and policy implications of the multiyear PROMIS Research Project, the report provides thumbnail sketches of INSLAW studies in such areas as police operations when analyzed in terms of the percent-

age of arrests resulting in conviction, prosecution operations as viewed from the standpoint of their potential impact on crime control, and criminal justice system effectiveness as viewed from the victim's vantage point as well as from a crime-specific perspective. Findings related to robbery, burglary, sexual assault, and "victimless crimes" are summarized. Other analyses pertain to recidivism, female offenders, victims of violent crimes, court delay, plea bargaining, bail, sentencing, and uniform case evaluation, among other topics.

2. *Enhancing the policymaking utility of crime data.* Why do statistics that are valuable indicators of the performance of individual agencies often tend to obfuscate the combined, systemwide effectiveness of those same agencies? How might the collection of crime data be improved to enhance their utility to policymakers? Addressing these questions, INSLAW made various statistical adjustments so that court, prosecutory, police, and victimization data could be compared to obtain systemwide performance measures for various crimes and to analyze at what points—from victimization to conviction—criminal incidents dropped out of the criminal justice process.

3. *The repeat offender as a priority for prosecutors.* After describing the disproportionate share of the criminal justice work load accounted for by repeaters (whether defined as those rearrested, reprosecuted, or reconvicted), the report suggests that greater emphasis on the prosecution of recidivists may be an appropriate strategy from a crime-control standpoint. A method is presented by which prosecutors could implement and monitor such a strategy.

4. *Police effectiveness in terms of arrests that result in convictions.* What can the police do to reduce the enormous volume of arrests that do not result in a conviction? After describing the magnitude of the problem, the police are analyzed in terms of their role in influencing what happens after arrest. Three major aspects of this role are studied: factors pertaining to the arrest (tangible evidence, witnesses, and the time span between the offense and the arrest), the officer who makes the arrest, and the legal and institutional framework within which the arrest is processed. The findings, which indicate that the police play a major role in determining the outcome of the case in court, are discussed in terms of their implications for changes in police policy regarding rewards and incentives, training, and other aspects of police operations—including the objectives that the police set for themselves.

5. *The prosecuting attorney as a manager.* Focusing on "street crime" prosecutions, the research analyzes the cumulative impact of various case-level prosecutory decisions, such as those relating to case rejections, nolles, dismissals, pretrial release recommendations, plea bargaining, and sentencing. Broad discretionary power exercised by prosecutors over the fate of *individual* cases is contrasted to the role played by prosecutors in providing *overall* direction to policies and priorities of the criminal justice system. Examples of policies that harness the prosecutor's power over individual cases to achieve systemwide objectives and priorities are presented. The research focuses on the challenge of measuring, monitoring, and enforcing priorities and evenhandedness in a large, high-volume court system.

6. *The high-fear crimes of robbery and burglary*. Comprising a substantial portion of the prosecutor's work load, robbery and burglary are analyzed from the perspectives of the victim, defendant, and court case. Robberies and burglaries are traced from victimization through disposition; defendants in those cases are compared with other arrestees in terms of their characteristics and criminal career patterns; prosecution of robbery and burglary cases and sentencing of convicted defendants are explored in detail. Policy implications of the findings are highlighted throughout.

7. *The low-conviction crime of sexual assault*. From victimization to sentencing, the report traces the processing of sexual assault cases and indicates the reasons why those cases are more likely to fall out of the system than other types of cases. Characteristics of victims and defendants are described, particularly the recidivism patterns of the latter. Findings are discussed in terms of their policy implications.

8. *Prosecuting cases involving weapons*. Analyzing how District of Columbia weapons-related statutes are applied by prosecutors, the publication contrasts the handling of cases in which a weapon is used—such as robbery—to those involving possession only. Recidivism patterns of the two sets of defendants are analyzed. The findings and their impact on policy are likely to have applicability beyond the jurisdiction studied.

9. *Prosecution of such "victimless crimes" as gambling, prostitution, and drug offenses*. These crimes are examined from arrest to sentencing. By what process are decisions made to enforce laws proscribing victimless crimes and to prosecute offenders? Is this process different from that used with regard to nonvictimless crimes? What factors affect decisions regarding enforcement and prosecution? To what extent are criminal justice resources allocated to combat victimless and nonvictimless crimes? What are the policymaking ramifications? These and other questions are addressed by the report.

10. *Scope and prediction of recidivism*. This report describes the nature and extent of the repeat-offender problem in the District of Columbia in terms of three definitions of recidivism: rearrest, reprosecution, and reconviction. By tracking a group of defendants over a number of years, INSLAW identified the habitual offenders by crime category and analyzed their patterns of crime switching. A predictive technique is developed to identify defendants who are most likely to recidivate within the same jurisdiction. Policy implications are highlighted.

11. *Geographic and demographic patterns of crime*. Of significance to policymakers, this report analyzes the geographic distribution of offenses and arrests in the District of Columbia and the residential patterns of the defendants. Possible differential processing by the criminal justice system of defendants from different areas is explored.

12. *Impact of victim characteristics on the disposition of violent crimes*. Analyzing how the victim's age, sex, relationship to offender, and other characteristics affected the case processing of violent crimes, INSLAW's research views the victim both as a decision maker (in terms of his or her behavior as a witness) and as an influence on the decisions made by prosecutor, judge, and jury.

13. *Female defendants and case processing*. The types of crimes for which females are arrested are compared with those for which males are apprehended. Differential handling of cases by sex is analyzed. The implication of the research findings for policy formulation is presented.

14. *Analysis of plea bargaining*. After describing the nature and extent of plea bargaining in the District of Columbia, the report explores the impact of work load, codefendants, and recidivism on plea rates. Looking at charge reduction, pretrial detention, and sentencing, INSLAW researchers analyze plea negotiations from the standpoint of both defendant and prosecutor. Suggestions aimed at enhancing the equity and efficiency of the plea-bargaining process are offered.

15. *Analyzing court delay*. Probing the data recorded in PROMIS regarding the elapsed time between various case-processing events, and comparing actual case-processing times to standards advocated by national commissions, the report attempts to isolate the determinants of delay and the impact of delay on case dispositions. The publication also explores the reasons for continuances and the effect of nonprocedural continuances on delay, and addresses the policy implications of the findings.

16. *Pretrial release decisions*. The range of possible pretrial release decisions in the District of Columbia is analyzed, including cash bond, surety, third-party custody, personal recognizance, and preventive detention. Factors influencing the likelihood of various pretrial release decisions are probed. Methods of using data commonly available at the bail hearing for the purpose of predicting crime-on-bail and flight are explored.

17. *Sentencing practices*. Focusing on the Superior Court of the District of Columbia, the research seeks to identify how the incarceration rates and lengths of sentences are affected by the characteristics of the defendant and his or her criminal history, as well as by the seriousness of the charge for which the conviction was secured, and other factors. These analyses attempt to measure the consistency and evenhandedness of the sentencing process.

Obviously, research is not a panacea. Much knowledge about crime must await better understanding of social behavior. And research will never provide the final answers to many of the vexing questions about crime. But, as the President's Commission on Law Enforcement and Administration of Justice observed in 1967: ". . . when research cannot, in itself, provide final answers, it can provide data crucial to making informed policy judgments." (*The Challenge of Crime in A Free Society*, p. 273.) Such is the purpose of the PROMIS Research Project.

William A. Hamilton
President
Institute for Law and
Social Research
Washington, D.C.

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In an era when the most fashionable game in town is shooting broadsides at public officials, a handful of public-spirited leaders remain willing to open up their operations for critical scrutiny. Maurice Cullinane, Chief of Washington's Metropolitan Police Department (MPD), and Earl Silbert, the United States Attorney for the District of Columbia, have demonstrated such willingness. This report, and others of the PROMIS Research Project, would surely not have been possible without the data, energy, and time that these two have given so generously within their agencies.

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Brian Forst
Principal Investigator

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EXECUTIVE SUMMARY

This study addresses the following question: What can the police do, if anything, to reduce the large share of arrests that do not end in conviction? The problem of arrests not ending in conviction is described in terms of its magnitude and costs. Three major aspects of the role of the police in influencing what happens after arrest are then studied: factors pertaining to the arrest itself (tangible evidence, witnesses, and the span of time between the offense and the arrest), the officer who makes the arrest, and the legal and institutional framework within which the arrest is processed. The findings are discussed in terms of their implications for changes in police policy regarding training, performance measurement and incentives, and other aspects of police operations.

Chapter 1 reports that the vast majority of all persons arrested on felony charges are not convicted. The costs of this phenomenon are substantial both to the extent that offenders are set free (opportunities to reduce crime are lost, resources are wasted, and justice is not done) and to the extent that innocent persons may have been arrested (costs are imposed on the innocent, resources are also wasted, and justice is, again, not done). Of course, it is often appropriate to arrest some persons even when the likelihood of conviction is low. The purpose of the study, noted above, is discussed in the context of what we know from earlier research on police operations. The data are then described, and an overview of the book is presented.

Chapter 2 provides background for the study by describing the crime setting and the criminal justice process in the District of Columbia. While the chance of being victimized in Washington appears generally to be less than the norm for cities of similar population density, it is high nonetheless.

The principal law enforcement agency for the District is the Metropolitan Police Department (MPD). While different in some ways from other urban police departments, the MPD is essentially similar. And while the prosecutor of "street crime" cases in the District of Columbia is the United States Attorney, his operations are essentially the same as those of the state's attorney or district attorney in other local jurisdictions. These agencies are described in some detail, as are the court and corrections components of the system.

The flow of arrests through the court is also described. More than half of the 17,534 adult arrests for felonies and misdemeanors brought to the Superior Court in 1974 were rejected or dismissed by the prosecutor. Judges dismissed another 8 percent of the arrests; 6 percent were not adjudicated because the defendants violated their obligation to return to the court; and 1 percent left the court due to grand jury rejection. The remaining cases either went to trial (4 percent of all the arrests went to trial as felonies, 6 percent as misdemeanors), or were disposed of as guilty pleas (13 percent as misdemeanors and 10 percent as felonies). This enormous attrition of arrests, moreover, is at the center of a much larger process of attrition from victimization to incarceration—most offenses do not lead to arrest and most convictions do not lead to incarcer-

ation. It is likely to be difficult for many persons to see how justice is done in a system in which the majority of offenders are not arrested, the majority of arrestees are not convicted, and the majority of convicted defendants are not incarcerated.

Chapter 3 focuses on the arrest. Eighty-five percent of all arrests brought to the Superior Court in 1974 were made by the MPD. Twelve percent of these 14,865 MPD arrests were for robbery, 19 percent for other violent offenses (including homicide, sexual assault, aggravated assault, and simple assault), 35 percent for property offenses other than robbery (mostly larceny, burglary, and breaking and entering), 21 percent for victimless crimes (consensual sex, drugs, and gambling), and 13 percent for other offenses (mostly illegal gun possession and fugitivity). While these offense categories differ from one another in many respects, they are similar at least in regard to the importance of evidence: the arrests that wash out of the court tend to be supported by less evidence, both tangible and testimonial, at the time the case is brought to the prosecutor than those that end in conviction. When tangible evidence, such as stolen property and weapons, is recovered by the police, the number of convictions per 100 arrests is 60 percent higher in robberies, 25 percent higher in other violent crimes, and 36 percent higher in nonviolent property offenses. When the police bring to the prosecutor arrests with more witnesses, the probability of conviction is also substantially higher, both for the violent and property crimes. (Recovery of tangible evidence was not reported in more than two-thirds of all arrests for violent offenses, half of all arrests for robbery, and one-third of all arrests for nonviolent property offenses. In most of the arrests in each of these three crime groups, fewer than two witnesses were reported by the police.) Related to the role of witnesses is our finding that a conviction was much more likely to occur in an arrest in which the victim and arrestee did not know one another prior to the occurrence of the offense. This holds for all the serious offenses: robberies, other violent crimes, and nonviolent property crimes. A deeper insight into this result can be obtained by examining the rate at which the prosecutor rejected or dismissed cases due to witness problems; we find the rate of rejection due specifically to witness problems, such as failure to appear in court, to be substantially higher for offenses that were not recorded as stranger-to-stranger episodes.

We find that another feature of the arrest influences the likelihood that the arrestee will be convicted—the elapsed time between the offense and the arrest. We find this time span to be longest in robberies, with 55 percent of the arrests made more than 30 minutes after the offense. The conviction rate for robbery arrests—especially stranger-to-stranger episodes—declines steadily as the span of time between the offense and the arrest grows longer. In stranger-to-stranger robbery episodes, 40 percent of all persons arrested within 30 minutes of the offense were convicted; for the suspects apprehended between 30 minutes and 24 hours after the occurrence of the offense, the conviction rate was 32 percent; for arrests that followed the occurrence of the crime by at least 24 hours, the conviction rate was only 23 percent. This pattern is also apparent in arrests for larceny and burglary, but not in arrests for other

offense categories. To the extent that arrest promptness does increase the conviction rate, it appears to do so largely out of the enhanced ability of the police to recover tangible evidence when the time from offense to arrest is short. In stranger-to-stranger robbery episodes, recovery of evidence is more than twice as likely when the arrest is made within 30 minutes of the occurrence of the offense than when it is made at least 24 hours afterward. This pattern is similar for violent offenses other than robbery, and somewhat less extreme in the case of nonviolent property offenses. And while prompt arrest may sometimes yield more witnesses, the data indicate that more witnesses are especially common in those arrests in which the time between the offense and the arrest is longer than five minutes. The support of additional witnesses in cases involving longer delay was reflected also by our finding that in arrests for violent offenses (including robbery) the prosecutor rejected or dismissed cases due to witness problems at a significantly lower rate when the delay was long.

The ability of the police to recover tangible evidence, obtain witnesses, and arrest suspects promptly after the offenses occur is surely limited. Victims and other witnesses who notify the police of an offense—and not all witnesses do—often learn of the offense after some delay (especially in burglary and homicide cases); witnesses do not always notify the police promptly after becoming aware of the crime; tangible evidence and witnesses may often be unobtainable. At the same time, the police who respond to the calls of victims and other witnesses may not be fully aware of the crucial importance to the success of the arrest in court of recovering physical evidence about the crime and the person who committed it—evidence such as stolen property, weapons, articles of clothing, samples of hair, and items marked with fingerprints. Further potential for reducing the enormous volume of arrests that fail to end in conviction is likely to lie in informing police officers of the importance of obtaining more than one good witness in serious crimes. A fundamental way to induce arresting officers to obtain better evidence is to expand their perspective of their own performance beyond the number of arrests they make. Arresting officers are likely to bring better evidence to court when their incentive to increase the number of *convictions* they produce, particularly in cases involving serious offenders, exceeds their incentive to increase the number of arrests that they make.

Chapter 4 examines differences in performance among MPD officers and analyzes the extent to which those differences are influenced by officer characteristics. We find substantial differences among the officers of the Metropolitan Police Department in their ability to produce arrests that lead to conviction. This is reflected in the fact that among the total of 2,418 officers who made arrests in 1974, as few as 368 officers produced over half of all arrests that led to conviction. The conviction rate for all the arrests made by these 368 officers, 36 percent, greatly surpassed that for the arrests made by the 2,050 other officers who made arrests (24 percent). What is less evident are the reasons why some officers appear to be so much more productive than others. While some of the officers who tend to produce more convictable arrests may do so as a result of their assignments, the highly productive officers can be found in

every major Washington assignment. Moreover, even if some assignments may present greater opportunities for the officer to make arrests, this does not ensure that the officer will necessarily produce more arrests that lead to conviction.

Nor is officer productivity closely tied to the officer's personal characteristics that are recorded in the data. While more experienced officers tend to produce more convictions and have higher conviction rates than officers with less time on the force, the other characteristics in the data — age, sex, residence, and marital status—are, at best, only mild predictors of an officer's ability to produce arrests that become convictions. To the extent that we do find statistical relationships between an officer's personal characteristics and his or her performance, they appear to run counter to some conventional beliefs. For example, officers who reside in the community where they serve, in this case the District of Columbia, do not appear to perform at higher levels of productivity than officers whose ties to the community are nonresidential. Indeed, nonresidents tend to produce more arrests that end in conviction per officer than do other officers, controlling for other factors, and they do not appear to do so at the expense of their conviction rates. Nor does the performance of married officers appear to surpass that of single officers. We find also that while policewomen are not involved as extensively in making arrests for crimes of violence and property as are policemen of similar experience, they do make such arrests, and appear to do so with about equal competence as their male counterparts.

What are the implications of these findings? To begin with, police departments would surely do well to identify their "supercops"—such as the 368 officers noted above—and make use of the information that causes these officers to have a pattern of bringing *good* arrests to the prosecutor. This information is likely to be extremely valuable for both pre-service and in-service training programs.

The police could also identify those officers who have established a pattern of making arrests that do *not* end in conviction. The arrests made by each of these officers could then be examined for specific problem areas. Are this officer's arrests often dropped by the prosecutor due to failure of witnesses to appear in court or to cooperate with the prosecutor? In those situations in which tangible evidence tends to be more common, such as an arrest made quickly after a property offense, does this officer seldom recover tangible evidence? If problems are identified in these areas, the appropriate information can be communicated to the officer for corrective action.

Police departments might also wish to acknowledge the officers who produce more convictable arrests and thereby encourage all officers to look beyond arrest, just as the few highly productive officers we find in Washington evidently do. Such acknowledgment could take the form of more rapid promotion or special recognition. If more rapid promotion is adopted, consideration might be given to providing the opportunity for promoted officers to remain in positions where they can continue to produce arrests that lead to convictions, as long as they have a taste for making arrests rather than serving in a more supervisory role. It is not

uncommon for promotion to lead automatically to *reduced* opportunities for the promoted person to serve in his or her most productive capacity.

Another implication is related to the proposed policy of requiring police officers to live where they serve. While such a policy might be advantageous in terms of budgetary and equity considerations, it is apparent that such a policy is not likely to cause the productivity of the force to increase.

It appears most important that individual officers be offered incentives not just to make arrests, but to make arrests that become convictions. It is quite clear that some officers have mastered this art and others have not.

Chapter 5 explores the conjunction of the police with the prosecutor and court. This begins with a comparison of the legal standards for arrest and conviction. That some arrests do not end in conviction is a natural consequence of criminal law and procedure—the law sets forth a less stringent standard for the police in making the arrest ("probable cause") than it does for the court in determining the guilt of the accused in trial ("beyond a reasonable doubt"). While the language clarifying these concepts remains somewhat imprecise, it is clear that the difference between these two evidentiary standards is large. Moreover, the prosecutor might refuse to carry forward certain cases even when the evidence is strong—because the offense was not serious, because the offender's personal circumstances at the time of the offense warrant leniency (for example, no prior arrests, several dependent children), or because the accused has suffered enough.

The objectives of the police, prosecutor, and judiciary are then discussed. The police serve in many capacities that extend beyond crime control; and the police crime control objective is constrained by constitutional boundaries to protect the liberty of the individual and by resource limitations. The police have, nonetheless, measured their performance primarily in terms of numbers of arrests, numbers of reported offenses cleared by arrest, and the ratio of arrests to offenses. These statistics are relatively easy to construct and cannot readily be influenced by other agencies. Yet they may have little to do with crime control, and may induce police resources to be diverted away from the purpose of ensuring that arrests hold up in court through sound police investigation and witness handling procedures and through cooperation with the prosecutor. Under prevailing practice in most jurisdictions, police officers appear to have considerably more incentive to make *many* arrests than to make *good* arrests, arrests with sufficient tangible evidence and cooperative witnesses.

The prosecutor and judge, like the police, appear to prefer to measure performance using statistics that are easy to construct and relatively difficult for other agencies to influence. Hence, the prosecutor tends to use convictions to measure the performance of the office and the individual, in much the same way that police use arrest statistics, and the judge tends to use the number of cases disposed of during a period. While both the police and prosecutor appear to aim toward crime control, current practices of measuring the performance of the respective

agencies produces an enormous potential for many arrests to be made that do not end in conviction.

Analysis of the reasons given by the prosecutor for rejecting and dismissing arrests brought by the police provides further evidence that the police often bring cases with insufficient tangible and testimonial evidence. The results of this analysis suggest also that few arrests are rejected due to improper police conduct. Of further interest is the finding that from 1972 through 1974 the rate at which the prosecutor rejected arrests at the initial screening stage declined from 26 percent to 21 percent, while the rate at which arrests were dismissed by the prosecutor after having been initially accepted increased from 16 percent to 29 percent.

Chapter 6 discusses innovations in police operations in the District of Columbia that reflect a broader perspective of their own role than has been traditionally assumed by the police. One such innovation is the use of the prosecutor's data for information about the following: the current status and schedule of dates of forthcoming events for any case; the list of cases pending for any defendant, as well as his or her case history; the entire case load of any officer and his or her court schedule; and the list of daily dispositions of cases, to augment police records with data about convictions and to provide the opportunity to assess performance in terms of convictions. A second innovation is the creation of the Office of the General Counsel to give technical and policy-related legal advice to the entire police department, and to serve as liaison between the police and prosecutor and thus improve the coordination between the two. A third is the MPD program to improve the treatment of witnesses, by way of films and other training materials, by communicating to police officers the importance of interviewing witnesses privately and tactfully, of verifying the accuracy of the names and addresses of all witnesses, and of informing witnesses thoroughly and clearly about what will be expected of them in court. Further innovations have been introduced in the areas of photographic and lineup identification of offenders in stranger-to-stranger crimes and in the area of securing and analyzing tangible evidence.

Among the most apparently successful innovations of all, however, are a series of joint police-prosecutor programs to control crime. One such program, funded by the Law Enforcement Assistance Administration, consists of fake fencing operations designed to remove property offenders from the street; two recent projects under this program—"Operation Sting" and "Got Ya Again"—appear to have been effective in achieving this goal. Another police-prosecutor program, "Operation Doorstop," appears to have been equally effective in incarcerating repeat offenders, by targeting police and prosecutor resources on defendants with serious criminal records and expediting those cases through the court process. Perhaps the most remarkable aspect of these programs is the evidence they provide of the value that can come to each agency from the willingness of the leaders of those agencies to give up parochial interests and view their roles in a larger context.

The concluding chapter briefly summarizes the principal findings and discusses the implications for policy. The central policy implication is

that the police can make a greater contribution to the criminal justice system by expanding their perspective of their own role from that of making arrests to that of making *good* arrests. Adopting such a perspective is likely to lead to improvements in specific areas—training, promotion and incentive programs, and placement policies—out of which the intention to make better arrests can manifest itself as a reality.

1. The Problem

Public entertainments in which the climax of the mystery story was the arrest of the guilty party bewildered me because, in the real world, an arrest rarely ends anything.

—James Q. Wilson
Thinking About Crime

Many are aware of the enormous number of crimes for which no one is arrested. It appears to be less common knowledge that the vast majority of arrestees are not incarcerated, nor even convicted. A recent sample of six major jurisdictions in the United States indicated that roughly 60 percent of all persons arrested on *felony* charges are not convicted and 80 percent are not incarcerated.[1]

The costs of this phenomenon are surely staggering. To the extent that criminal perpetrators are set free, justice is not done; opportunities to reduce crime through incapacitation and deterrence are lost; police, prosecutor, and court resources are consumed to little apparent avail; and the victims are doubly violated. To the extent that innocent persons are arrested, justice is, again, not done; costs are imposed on the innocent; and criminal justice resources are also wasted.

This is not to imply that all arrests should lead to conviction. Arrests are sometimes made in which the victim refuses to support the prosecutor after initially insisting that the police officer make the arrest. Other arrests are made with evidence strong enough to convict the defendant, but under circumstances that make the pursuit of conviction unwise. And arrests are sometimes made with evidence that is sufficient for the police to make an arrest but insufficient to produce a conviction.

In the District of Columbia, however, more than 70 percent of the 17,534 arrests for felonies and serious misdemeanors brought to the Superior Court in 1974 did not lead to conviction. It seems appropriate to ask questions about the 12,350 arrests that did not end in conviction. Was it necessary for all those arrests to have been made? Should some of the persons arrested in those cases have been convicted?

The failure of most arrests to end in conviction may be symptomatic of conflict among the objectives of the police, the prosecutor, and the judiciary. It may also be a product of the incompleteness of the informa-

tion available to those who make up the criminal justice system. The National Advisory Commission on Criminal Justice Standards and Goals commented on both conditions:

> Success in protecting society . . . is determined by the degree to which society is free of crime and disorder.
>
> This is but another way of saying that no element of the criminal justice system completely discharges its responsibility simply by achieving its own immediate objective. It must also cooperate effectively with the system's other elements. . . .
>
> Police agencies have a responsibility to participate fully in the system and cooperate actively with the courts, prosecutors, prisons, parole board and noncriminal elements. . . .
>
> If the system is to work as a system, the participants must first know how it works. . . .[2]

The purpose of this study is to provide insights into why so many arrests fail in court, with a view toward these larger goals: greater cooperation within the criminal justice system and the reduction of crime, disorder, and injustice.

THE COURT PERSPECTIVE: A DEPARTURE FROM EARLIER ANALYSES OF THE POLICE

In taking the court perspective, we break tradition with most previous empirical research on police. Police operations have been analyzed on the basis of the rate of clearance of reported offenses by arrest, rate of reported crime, rate of victimization, level of citizen satisfaction, response time, and resource expenditure.[3] Clearly, these performance measures are useful for evaluating law enforcement policy. At the same time, problems associated with their use have been well documented.[4] In particular, these measures do not lead to an explanation of the fact that most arrests do not lead to conviction.

The central notion of this study is that more informed policy decisions may be possible after examining the extent to which factors under police control are systematically related to "desirable" court outcomes. Assuming that it is generally undesirable for the police to arrest a person and for the prosecutor or court to then drop all the charges,[5] what can the police do to decrease the rate at which persons arrested are not convicted? How important is the recovery of tangible evidence, such as weapons and stolen property, to the convictability of an arrest? How important are witnesses, both in number and type? Under what circumstances does the delay between the time of the offense and the arrest most hinder the prospect of conviction? To what extent do a police officer's experience, sex, place of residence, and age affect the probability that the arrest will result in conviction? How do these factors affect the *number* of convictions a police officer produces? What reasons do prosecutors give for rejecting arrests?

Answers to these questions are potentially useful in assessing arrest and investigation procedures and in assessing policies related to the recruitment and training of police officers. At the same time, the very process of focusing on such questions can help to produce a more funda-

mental benefit: improved synchronization of the operations of the police and courts, as a step toward a more just and effective criminal justice system.

DATA SOURCES AND SCOPE OF THE ANALYSIS

Until very recently, the opportunity to perform an empirical study of police work from the perspective of the court has been limited by the lack of available data. These barriers to analysis were greatly reduced with the institution of automated record-keeping procedures in the offices of the prosecutor and police in the District of Columbia about 1970. Data that have accumulated since that time from these two sources serve as the principal body of empirical observations for this study. The police data come from the personnel file of the Metropolitan Police Department (MPD) of the District of Columbia. This file contains information about each officer on the MPD force, including age, sex, length of service, marital status, place of residence, assignment, and rank.

The second, and larger, data source is the Prosecutor's Management Information System (PROMIS), which has been operating in the Superior Court Division of the United States Attorney's Office for the District of Columbia since 1971. PROMIS contains a broad range of data about adult arrests for felonies and serious misdemeanors, including details about the offenses, arrests, prosecution decisions, and court actions.[6]

The key data elements providing a link between the police personnel and PROMIS data sources are the officer's name and badge identification number. The combined data set consists of information, for each arrest, about the arresting police officer's characteristics and assignment, the span of time between the offense and the arrest, the relationship between the primary victim and the arrestee (for each person arrested), the charges brought by the officer, whether tangible evidence was recovered, the number of witnesses other than the police, the prosecutor's decision at the initial court processing stage, the outcomes at all subsequent court stages, and reasons cited for case rejection or dismissal at any stage prior to trial.

The data provide opportunities to focus both on issues having to do with arrest procedure and issues having to do with the selection and utilization of police personnel. We analyze apprehension procedure by organizing the data so that the individual arrest is the unit of observation, and we analyze police personnel issues by aggregating the arrest data so that the individual officer becomes the unit of observation.

OVERVIEW OF THE BOOK

In Chapter 2 we describe crime and the criminal justice system in the District of Columbia—including profiles of the police, prosecutor, court, and correction sectors. We then describe the arrestees, the victims, and the flow of criminal episodes from victimization to incarceration.

The next three chapters address facets of the central issue of this study, why arrests so often fail in court: factors pertaining to the arrest and the police officer, and legal and institutional factors.

Chapter 3 describes the arrests by major crime group, including information about the delay in apprehension, the recovery of tangible evidence, and witnesses. These characteristics are analyzed in terms of their effects on one another and on the likelihood that the arrest will leave the court as a conviction.

Chapter 4 explores another set of factors behind the success of arrests in court—the characteristics of the police officer. Here, we describe the force in terms of personnel characteristics: sex, experience, age, place of residence, and marital status. We then examine the effects of these characteristics on several different court outcomes.

In Chapter 5 we focus on the interaction of the police with the prosecutor and court, beginning with a comparison of the legal standards for arrest and conviction. Institutional differences among the police, prosecutor, and judiciary are also discussed. We then analyze the reasons recorded by the prosecutor for rejecting arrests, and for dismissing many that had been initially accepted. Indications of changes in the standards of case acceptability at the initial screening stage are described next, with an assessment of the apparent effect of this development on the ultimate outcome of arrests in court.

Chapter 6 discusses innovations in police operation in the District of Columbia that reflect a broader perspective by the police of their own role: police use of court data, improvements in the treatment of witnesses, a police unit that reviews arrests rejected by the prosecutor at the initial screening stage, and a special police-prosecutor operation that concentrates resources on repeat offenders.

We conclude in Chapter 7 with a discussion of the policy implications of the major findings of this study.

Notes

1. Patrick R. Oster, "Revolving Door Justice: Why Criminals Go Free," *U.S. News and World Report*, May 10, 1976, p. 37. The six jurisdictions were Baltimore, Chicago, Detroit, Los Angeles County, San Diego County, and Washington, D.C. A recent Vera Institute of Justice study produced similar findings for New York City. *Felony Arrests: Their Prosecution and Disposition in New York City's Courts* (New York, 1977), pp. 1-2.

2. National Advisory Commission on Criminal Justice Standards and Goals, *Police* (Washington, D.C.: Government Printing Office, 1973), p. 70.

3. For a discussion of the rate of clearance of reported offenses by arrest, see R. A. Carr-Hill and N. H. Stern, "An Econometric Model of the Supply and Control of Recorded Offenses in England and Wales," *Journal of Public Economics*, vol. 2 (1973), pp. 289-318.

Rate of reported crime: George B. Weathersby, "Some Determinants of Crime: An Econometric Analysis of Major and Minor Crimes Around Boston," unpublished manuscript, September 1970; S. James Press, *Some Effects of an Increase in Police Manpower in the 20th Precinct of New York City*, paper no. R-704-NYC (New York: Rand, 1971).

Rate of victimization: George L. Kelling, et al., *The Kansas City Preventive Patrol Experiment Summary Report* (Washington, D.C.: Police

Foundation, 1974), pp. 20-21; James Q. Wilson and Barbara Boland, "Crime," chapter 4 of *The Urban Predicament*, William Gorham and Nathan Glazer, eds. (Washington, D.C.: Urban Institute, 1976), pp. 179-230.

Level of citizen satisfaction: Rita Mae Kelly, et al., *The Pilot Police Project: A Description and Assessment of a Police-Community Relations Experiment in Washington, D.C.* (Kensington, Md.: American Institutes for Research, 1972).

Response time: Richard C. Larson, *Urban Police Patrol Analysis* (Cambridge, Mass.: M.I.T. Press, 1972).

Resource expenditure: A. J. Tenzer, et al., *Applying the Concepts of Program Budgeting to the New York City Police Department*, paper no. RM-5846-NYC (Santa Monica, Calif.: Rand, 1969).

4. Urban Institute, *The Challenge of Productivity Diversity: Part III–Measuring Police-Crime Control Productivity*, report prepared for the National Commission on Productivity (Washington, D.C., 1972); Saul I. Gass and John M. Dawson, *An Evaluation of Police-Related Research: Reviews and Critical Discussions of Police-Related Research in the Field of Police Protection* (Bethesda, Md.: Mathematica, Inc., 1974).

5. As we have noted, not all instances in which an arrest is made and then dropped in court are clearly undesirable. We discuss the legal, institutional, and other factors associated with dropped cases in considerable detail in Chapter 5.

6. PROMIS is described in William A. Hamilton and Charles R. Work, "The Prosecutor's Role in the Urban Court System: The Case for Management Consciousness," *Journal of Criminal Law and Criminology*, June 1973; also, Institute for Law and Social Research, *INSLAW Briefing Paper*, nos. 1, 13-16 (Washington, D.C., 1975). See also Appendix A. (The appendixes to this report are available from INSLAW in a separate volume.)

2. The Setting

To provide a background for the analysis that follows, and to give a basis for determining the applicability of the conclusions of this study to other jurisdictions, we describe in this chapter crime and the criminal justice process in the District of Columbia. The first section gives an overview of crime in the District, with a focus on the victims and the persons arrested. The next section profiles the principal agencies that make up the local criminal justice system and the procedures that follow an arrest. In this section we also describe the principal law enforcement agency of the District, the Metropolitan Police Department (MPD). The concluding section describes the flow of criminal episodes through the criminal justice bureaucracy.

CRIME IN THE NATION'S CAPITAL

Washington, D.C., a city with about 750,000 residents, has a high crime rate. There are, to be sure, cities with higher rates of crime—Washington appears to have considerably *less* crime, in fact, than the four cities with similar concentrations of residents surveyed recently in a major victimization study. (See Exhibit 2.1.) Moreover, the reported crime rate for Washington appears to be declining at the time of this writing, and it is artificially inflated by unusually large numbers of inhabitants (especially tourists and working people) who are not residents of the District. Crime in Washington is, nonetheless, high by any civilized standard. An estimated 3 percent of the residents of the District were victims of personal robbery or assault in a 12-month period ending in 1974; 14 percent of the District's households were victims of burglary, larceny, or motor vehicle theft; and 42 percent of the commercial establishments were victims of burglary or robbery.[1]

The Victims

What do we know about the victims of these crimes? The results of the National Crime Panel survey indicate that in 1973-74 a male in Washington, D.C., was nearly twice as likely to be the victim of a violent crime as a female, and about as likely to be victim of a property crime as a female. A white was about 65 percent more likely to be the victim of a violent offense than a black, and more than twice as likely to be victimized in a property offense as was a black. Poor people were more likely to be victims of violent crimes, and less likely to be victims of property crimes, than middle- or upper-income people. Persons of the ages 16 to 34 were found to be the prime age-group targets of violent offenders, and persons 20 to 34 the most common targets of property crime.[2]

EXHIBIT 2.1

VICTIMIZATIONS PER 1000 RESIDENT POPULATION AGE 12 AND OVER, WASHINGTON, D.C., AND CITIES WITH SIMILAR POPULATION DENSITIES, 1973-74

Type of victimization	Washington (12,321)[a]	Boston (13,936)[a]	Buffalo (11,205)[a]	Pittsburgh (9,422)[a]	San Francisco (15,764)[a]
Personal:					
Crimes of violence	31	67	49	47	71
Crimes of theft	65	119	74	83	129
Household:					
Burglary	75	149	97	93	115
Larceny	51	87	92	90	85
Auto theft	15	86	30	43	38
Commercial:					
Burglary	330	576	319	293	253
Robbery	88	132	56	77	80

Source: U.S. Department of Justice, Law Enforcement Assistance Administration, *Criminal Victimization Surveys in 13 American Cities* (Washington, D.C.: Government Printing Office, 1975), pp. 19-21, 37-39, 191-93, 229-31, and 247-49. The crime categories used here are not defined in precisely the same manner as those used elsewhere throughout this report.

[a]Population per square mile. Source: U.S. Bureau of the Census, *Statistical Abstract of the United States: 1972* (Washington, D.C.: Government Printing Office, 1972), pp. 21-23.

In Chapter 3 we study victims more fully, focusing on the relationship between the victim and the person arrested and the importance of that relationship to the outcome of the case in court.

The Arrestees

We know less about the offenders than about the victims. A counterpart to the victimization survey does not exist for offenders, since people cannot generally be expected to volunteer information about their participation in illegitimate activities as candidly as they do information about their being victims of crime. And while many offenders are apprehended, the most proficient ones may not be apprehended as frequently as the less skillful. Hence, an analysis of the characteristics of the persons *arrested* may give a distorted picture of the *offender* population. It is useful, nonetheless, to look at these characteristics.

Characteristics of the Persons Arrested. Half of the persons arrested and brought to the Superior Court in 1974 were under 25 years of age. This is especially remarkable in view of the fact that juvenile cases are not included in these arrests. The robbery and burglary arrestees were the youngest group, and persons arrested for assault were, on the whole, older than persons arrested for any other serious offense.

Eighty-seven percent of the arrestees were black. This figure is especially large when contrasted with Census data indicating that 71 percent of all District residents were black in 1970.[3]

Males were even more disproportionately represented as arrestees than were blacks: while less than half of the District's resident popula-

tion in 1970 was male, 86 percent of the arrestees were male, and over 90 percent of the persons arrested for felony offenses were male. The women who were arrested were, like the men, mostly young (half were less than 25 years old) and black (79 percent). A more detailed account of these characteristics by crime category is shown in Exhibit 2.2.

EXHIBIT 2.2

CHARACTERISTICS OF THE ARRESTEES IN CASES BROUGHT TO THE SUPERIOR COURT OF WASHINGTON, D.C., BY CRIME GROUP, 1974

Crime group	Number of arrests	Median age	Black, %	Male, %
Robbery	1,955	22	96	94
Other violent:	3,176	29	90	87
Homicide	285	27	95	84
Sexual assault	402	26	86	99
Aggravated assault	1,815	31	91	83
Simple assault	674	28	85	93
Nonviolent property:	6,562	25	89	87
Larceny	3,109	25	90	82
Burglary	1,592	24	94	96
Unlawful entry	425	25	82	90
Other[a]	1,436	26	85	85
Victimless:	3,659	25	76	78
Sex	1,169	25	58	58
Drugs	2,154	24	83	88
Gambling	336	52	89	83
Other	2,182	27	90	88
Total	17,534	25	87	86

Source: Prosecutor's Management Information System (PROMIS).

[a]Includes auto theft, property destruction, forgery, fraud, and embezzlement.

The arrestees appeared also to be predominantly poor. Ninety percent were classified as "indigent" and were represented by the Public Defender Service or by court-appointed attorneys.

Recidivism. It has been found elsewhere that a relatively small core of repeat offenders commits the vast majority of all offenses.[4] A more recent study, from the INSLAW report series that includes this book, found that over a 56-month period from 1971 to 1975, 30 percent of the different persons who were arrested had at least two arrests and accounted for 56 percent of all the arrests brought to the Superior Court during the period.[5] Of course, not all arrestees are offenders. However, this pattern of a few persons involved in many cases holds up for *convictions* as well as for arrests—18 percent of the different persons who were convicted were convicted at least twice, and were the subject of 35 percent of all convictions that occurred during this 56-month period.

Recidivism may be reflected also in the rearrest of persons released on bail, probation, or parole. In 1974, 26 percent of all persons arrested for

felony offenses were on one or more of these types of conditional release. This phenomenon was more prevalent among persons arrested for robbery (31 percent) and burglary (32 percent) than for other arrestees.[6]

The seriousness of the recidivism problem is further reflected in the fact that arrest records are quite common among persons arrested for homicide, as is shown in Exhibit 2.3. This ultimate crime may often represent the culmination of a career in crime.[7]

EXHIBIT 2.3

ARRESTEES WITH PRIOR ARRESTS AS A PERCENTAGE OF ALL ARRESTEES, BY CRIME GROUP
(DISTRICT OF COLUMBIA, 1974)

Crime group	Arrestees with prior arrests	All arrests	Percentage with arrest records
Robbery	1,162	1,955	59
Other violent:	1,579	3,176	50
Homicide	160	285	56
Sexual assault	188	402	47
Aggravated assault	902	1,815	50
Simple assault	329	674	49
Nonviolent property:	3,394	6,562	52
Larceny	1,581	3,109	51
Burglary	947	1,592	60
Unlawful entry	194	425	46
Other	672	1,436	47
Victimless:	1,346	3,659	37
Sex	376	1,169	32
Drugs	835	2,154	39
Gambling	135	336	40
Other	1,240	2,182	57
Total	8,721	17,534	50

Source: Prosecutor's Management Information System (PROMIS).

Additional insights into recidivism and its causes can be gained by examining the system that processes criminal cases in the District of Columbia.

THE CRIMINAL JUSTICE SYSTEM IN THE DISTRICT OF COLUMBIA

The criminal justice agencies of the District of Columbia are a unique blend of locally controlled and funded agencies operating in conjunction with agencies of the federal government. The uniqueness is, of course, a product of Washington, D.C., as the seat of government; it is also a product of the first steps toward home rule for the District. As will be noted, law enforcement, the court, and corrections are largely con-

trolled locally, whereas prosecution is, in the main, federally controlled and funded. This mix of federal and local interests gives rise to a set of policies, accommodations, and discretionary conventions that are different in some respects from those found in other jurisdictions, but they are nonetheless essentially similar. The major differences will be identified as we describe the agencies and processes of the system.

Criminal Justice System Agencies

It is appropriate to divide the criminal justice system into four parts—police, prosecution, courts, and corrections.

The Police. The principal law enforcement agency of the District is the *Metropolitan Police Department.* It is a large, modern, urban department concerned with the usual police objectives—maintaining peace and order, preventing crime, ensuring a smooth flow of traffic, and protecting the safety of citizens. The MPD operates in many ways like a combined state and municipal police department, enforcing the equivalent of conventional state and local laws.

The MPD budget for FY 1975 was $128 million. This budget was used to maintain a force of 4,702 sworn officers and 832 civilians, a fleet of 1,117 motor vehicles, and large amounts of additional capital assets. A noteworthy feature of the MPD force of sworn officers is that it has declined from 5,070 in FY 1972 to about 4,300 five years later.

These MPD resources were called upon by the public for service 70 times per hour, on average, in FY 1975. Less than 10 percent of these calls involved criminal episodes—56,888 offenses were reported in that fiscal year. These offense reports, in turn, resulted in many thousands of arrests.

In all, the MPD made 37,651 arrests in FY 1975, some of which did not result from calls from the public. Sixteen percent of the persons arrested in these episodes were juveniles, and about half of the remaining 31,647 arrests involved felony and misdemeanor offenses that went to the Superior Court,[8] the analysis of which takes up most of the remainder of this report.

In addition to the MPD, the District has a complement of federal law enforcement agencies, including the FBI, Drug Enforcement Administration, and the Secret Service. It also has several police agencies that perform unique local functions; among the more prominent of these are the Executive Protective Service, the U.S. Capitol Police, and the U.S. Park Police. In addition, many arrests are made by private security personnel, such as department store guards.

The MPD, however, is by far the largest of the police agencies responsible for the prevention of "street" crime in the District. It is, moreover, the only law enforcement agency with exclusive or concurrent jurisdiction throughout the District.

Prosecution. The *United States Attorney* is the equivalent of the state's attorney or district attorney in other local jurisdictions. Most prosecutions in the District are carried out by Assistant U.S. Attorneys. Although the U.S. Attorney and his assistants constitute a federal agency, they prosecute those common law offenses that are described in

the D.C. Code, as well as those crimes arising under federal law. This means that the U.S. Attorney is responsible for prosecutions both in the U.S. District Court and in the Superior Court of the District of Columbia; his staff of approximately 160 lawyers is divided about equally between these two courts.

The *Corporation Counsel,* a local appointee, is responsible for the prosecution of minor misdemeanors (such as disorderly conduct), municipal ordinance infractions, and certain traffic-related offenses. The Corporation Counsel also prosecutes all juvenile offenders, except those 16- and 17-year olds the U.S. Attorney chooses to prosecute as adults.[9]

Courts and Court Agencies. The *Superior Court* of the District of Columbia serves as the equivalent of a state or county court of general jurisdiction. Its 44 judges, who are appointed by the president and confirmed by the Senate, rotate through divisions that handle civil cases, felonies, misdemeanors, and juvenile and family matters.

The *U.S. District Court* is the federal court for Washington, D.C. Its 15 judges handle federal matters, both civil and criminal. Some criminal cases, principally those arising from drug-related offenses, are brought to the District Court by officers of the MPD. Approximately half of the cases processed by this court come from federal investigatory agencies, such as the FBI and the Drug Enforcement Administration.

Appeals from the District Court are taken to the *United States Court of Appeals for the District of Columbia Circuit,* which has nine judges.[10]

The *District of Columbia Court of Appeals,* also with nine judges, takes appeals from the Superior Court. Further appeal is available directly to the Supreme Court, under the same review process that holds in state courts. The District of Columbia Court of Appeals is unique among state-level courts of appeal in that its judges are appointed by the president and confirmed by the Senate.

The *D.C. Bail Agency,* an agency of the Superior Court, is responsible for investigating the background of defendants to determine the suitability of their release prior to trial. This agency also monitors some released defendants, who are required to report weekly, and provides a variety of services, including assistance in finding jobs and residences.

Correctional Agencies. The *probation offices* in both the Superior and District Courts are responsible for the supervision of defendants convicted and sentenced to a term of probation. Although generally classified as correctional agencies because they treat convicted defendants, they differ from other correctional institutions in that they deal with released convicts and are under judicial supervision within their respective courts.

The *D.C. Department of Corrections* handles most of the defendants from Superior Court who are convicted and sentenced to a period of incarceration or to special programs operated by the Department, including halfway houses and work-release programs. Persons convicted in the District Court are sometimes also sent to a D.C. correctional institution, typically only when the sentence is short. The Corrections Department is in charge of the D.C. Jail, the Women's Detention Center,

the Lorton (Va.) prison facility, and a number of halfway houses, youth detention centers, community corrections facilities, and agencies that conduct special treatment programs.

Defendants convicted in the District Court and sentenced to a period of incarceration are usually sent to one of the *federal correctional institutions* of the Federal Bureau of Prisons. Some defendants convicted in Superior Court are also sent to federal institutions—persons sentenced to a federal institution in another case in a different jurisdiction (such as the District Court), women with sentences of at least one year, and men who are likely to present special security problems at Lorton.

Parole boards, which determine whether a prisoner who has served the minimum required portion of his sentence is ready for release, serve both the local and federal correctional institutions. The D.C. Parole Board is an agency of the D.C. government, while the Federal Parole Board is an agency of the U.S. Justice Department. Parole decisions for all inmates in federal prisons are made by the Federal Parole Board, even when the case arises in the Superior rather than the District Court.

Processing the Arrest: Police, Prosecutor, Courts, and Corrections

In Chapter 1 we suggested that the criminal justice system is like a sieve through which many arrests pass, with few strained out as convictions. Before any conclusions are drawn about policies or procedures that could either improve the holding power of this leaky system or reduce the volume of arrests that pour into it, it is appropriate to identify the points at which cases drop out and to see who makes the decisions to drop them.

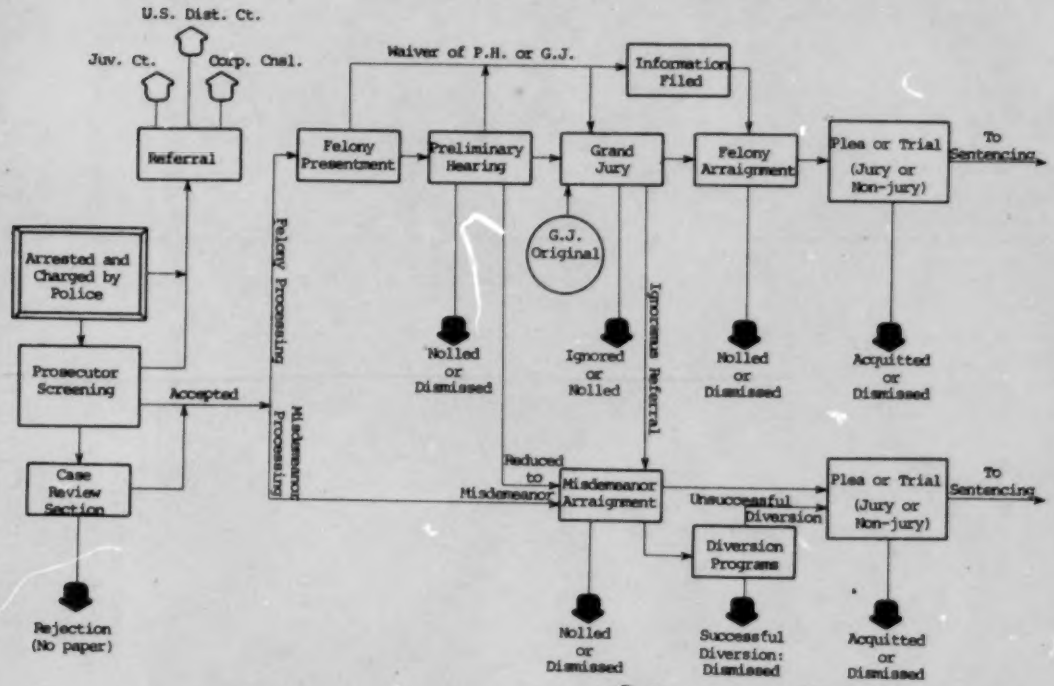
Exhibit 2.4 illustrates the processing of criminal cases through the Superior Court in Washington, D.C. Not reflected in the exhibit is the overlap among the court jurisdictions in the District of Columbia. Some cases that could be handled in either the federal or local court are taken to the federal court by policy of the U.S. Attorney's Office.[11] Serious white-collar crimes, serious drug offenses, robberies of banks and other federally insured financial institutions, and arrests involving organized criminal activities are among the crimes normally handled in the federal court. When a person is charged for offenses that might be prosecuted in more than one court, the entire case is generally taken to the District Court, except when the most serious charge is within the jurisdiction of the Superior Court. Overlap is further exemplified in the arrests of 16- and 17- year olds. As noted above, these persons may be prosecuted as adults;[12] this is usually done when their crimes are very serious or their records are extensive. Thus, some of the arrests that the police count as juvenile arrests enter the adult court and corrections system.

Let us now look at Exhibit 2.4 in detail.

Arrests. The police play a critical role in preparing a criminal case for the court. They execute warrants for searches, seizures, and arrests; make initial probable cause determinations in arrests without warrants; inform arrestees of their rights and the charges brought against them; identify and question lay witnesses, record their names and addresses for the prosecutor, and provide information to prepare the witnesses for court appearances and testimony; arrange for investigation;

EXHIBIT 2.4

PROCESSING OF CASES IN SUPERIOR COURT, WASHINGTON, D.C.



question suspects; recover tangible evidence and examine some of the evidence in a criminal laboratory; and bring arrests forward to the prosecutor. If the prosecutor accepts the case at screening, the officer is generally required later to testify in court. We will examine the importance of the way the arrest is made to the outcome of the case in court in Chapters 3 and 5.

Screening. The arrests that are brought to Superior Court are screened, usually within 24 hours of arrest, by Assistant U.S. Attorneys, who may accept them as charged by the police, accept them with changes, or reject them entirely. Those MPD arrests that are rejected by the prosecutor are reviewed by the MPD's Case Review Section; a few of these are presented again and may then be accepted.[13] (In the District of Columbia, case acceptance by the prosecutor is referred to as "papering"; to reject a case is to "no-paper" it.) Accepted cases that are liable to sentences of one year or less are handled as misdemeanors; others that are accepted are prosecuted as felonies. The U.S. Attorney's Office rejected 21 percent of all arrests brought to the Superior Court in 1974 at this initial screening stage. The reasons given by the Office for these rejections are examined in Chapter 5.

Presentment. Usually on the day of screening, felonies go through presentment, which is the first judicial hearing. At presentment the defendant is informed of the charges against him; counsel is appointed if the defendant is not already represented; the procedures of preliminary hearing are explained; and pretrial release decisions are made.[14] At this stage the defendant may waive preliminary hearing or indictment (or both) and go directly to arraignment. These intervening events involve delay and provide the potential for subsequent case dismissal due to witness problems or other forms of case "decay"; as a result, defendants do not routinely waive their rights to a hearing or indictment.

Preliminary Hearing. At the preliminary hearing, a judge determines whether there is probable cause to believe a crime was committed and the defendant is responsible. After this hearing (and often immediately before), the prosecutor may drop the case entirely or reduce the charges so that the case becomes a misdemeanor. If the prosecutor dismisses the case prior to indictment, the dismissal is termed a "nolle prosequi." The U.S. Attorney's Office "nolled" 29 percent of all arrests brought to the Superior Court in 1974. Cases with felony charges that were not dismissed by the judge or prosecutor and that were not reduced to misdemeanors are "bound over" to the grand jury.

Grand Jury. If the prosecutor decides to bring a case to the grand jury, he or she must present the facts, supported by a witness or witnesses who testify before a grand jury of 16 to 23 people. The grand jury then votes either to indict or to "ignore" (i.e., reject) the case, with 12 votes needed to secure indictment. Should the grand jury reject the case, which it infrequently does, it may refer the case for misdemeanor prosecution, which will be carried out at the discretion of the prosecutor. The prosecutor may reduce or dismiss the charges himself before, during, or after presentation to the grand jury.

A few street crime cases, based on investigations by prosecutors or police, or both, originate in the grand jury. In these instances the case

then proceeds directly to arraignment.

Arraignment. If indicted, the defendant is arraigned, usually within two weeks. At arraignment, the defendant hears the indictment read, enters a plea—guilty, not guilty, or (with the consent of the court) nolo contendere—and, unless he has pled guilty, states whether he wants a jury or a "bench" trial. He can waive the right to a jury trial later if he chooses, but once waived, the right cannot later be reinstated. Conditions of pretrial release or detention may be reviewed at arraignment.

At this point, the prosecutor and the court once again confront a natural opportunity to dismiss the case.

Misdemeanors are processed quite differently from felonies in the Superior Court. After screening, misdemeanors proceed that same day to arraignment, where charges are presented, pleas are taken, and release decisions made. Some misdemeanants may be offered the opportunity to enter diversion programs involving rehabilitation attempts;[15] if it is determined eventually that the defendant completed the program successfully, the prosecutor will dismiss the charges. Felony cases that are reduced to misdemeanors also go to misdemeanor arraignment.

After Arraignment and Trial. After arraignment, or after an unsuccessful diversion attempt, both felonies and misdemeanors proceed to a plea of guilty,[16] to trial, or to dismissal by prosecutor or judge. In the period between arraignment and trial, various types of motions, status hearings, or delays due to various court problems may take place, or the defendant may flee. If the prosecutor dismisses the case during trial, which occurs rarely, he must do so with the consent of the defendant. If the defendant is convicted, a presentence report is prepared by the probation office in all felony and some misdemeanor cases, and the case then proceeds to sentencing; this may result in a suspended sentence, probation, incarceration, a split sentence (incarceration and probation), or assignment to a special Corrections Department treatment program.

The Numbers. It should be evident that the opportunities for an arrest to drop out of the court prior to trial are numerous. Exhibit 2.5 summarizes the flow of 17,534 arrests brought to the Superior Court in 1974. Prosecutors rejected or dismissed more than half of all arrests made in that year. Judges dismissed another 8 percent, 6 percent were not adjudicated due to defendants' violating their obligation to return to the court, and 1 percent left the court upon rejection by the grand jury. The remaining cases either went to trial (10 percent) or were disposed of as guilty pleas (24 percent).

Thus we see that the failure of arrests to end in conviction is rarely the result of the courtroom skill of a brilliant defense lawyer, as has been so commonly portrayed on television and in the theater. An arrest usually fails at the decision of the prosecutor to drop the case.

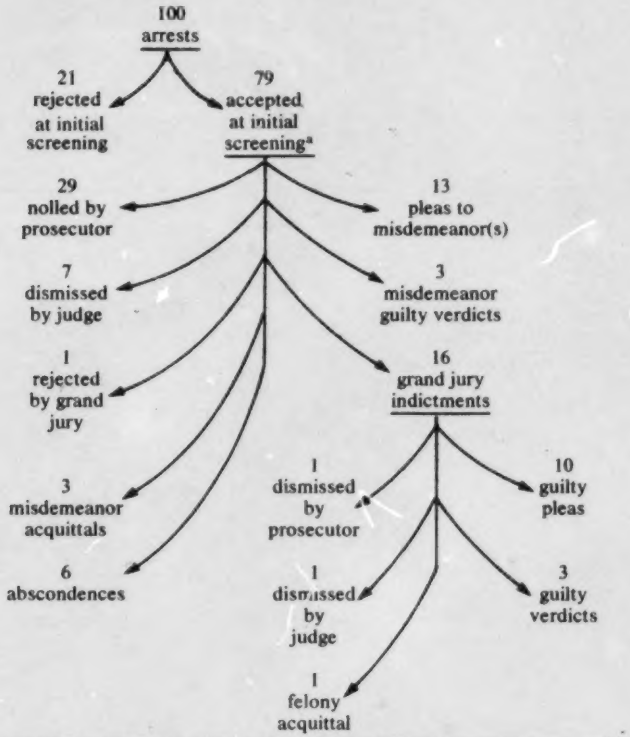
FROM VICTIMIZATION TO INCARCERATION

This enormous attrition of arrests that we find, as cases pass through the prosecution and court bureaucracies, is at the center of a much larger process of attrition from victimization to incarceration.

To begin with, most offenses do not lead to arrest. While many of-

EXHIBIT 2.5

OUTCOMES OF 100 "TYPICAL" ARRESTS BROUGHT TO THE SUPERIOR COURT OF WASHINGTON, D.C., IN 1974



Source: Based on the actual flow of 17,534 arrests recorded in the Prosecutor's Management Information System (PROMIS).

[a]Total does not agree due to rounding error.

fenders may eventually be apprehended by virtue of the number of offenses they commit, individual criminal episodes usually go unresolved.

Many crimes are not even reported to the police. The National Crime Panel estimates that 58 percent of all personal victimizations in Washington in 1973 were not reported to the police, nor were half of all household victimizations and 18 percent of all commercial victimizations.[17] And in many of the criminal episodes that are reported to the police, the officer is not given sufficient information to justify making an arrest. In FY 1975, the Metropolitan Police Department received 8,846 reports of robbery and made 2,835 robbery arrests; 14,321 burglary offenses were reported to the MPD in that year, and 3,536 arrests were made.[18]

This larger process of attrition continues even after conviction. Less than 40 percent of all persons arrested for a violent or property offense

who were convicted in the Superior Court were subsequently incarcerated. These results are shown in Exhibit 2.6, by major crime group.

EXHIBIT 2.6

INCARCERATIONS AS A PERCENTAGE OF CONVICTIONS, BY CRIME GROUP (SUPERIOR COURT OF WASHINGTON, D.C., 1974)

Crime group[a]	Incarceration rate	Convictions
Robbery	62%	628
Other violent	33%	830
Nonviolent property	35%	2,072
Victimless	9%	923
Other	25%	731
Total	32%	5,184

Source: Prosecutor's Management Information System (PROMIS).

[a]Based on police charges. With few exceptions, the charges on which the convictions were based were in the same crime group as the police charges.

It may be difficult, especially for victims, to see how justice is done in a system in which the majority of offenders are not arrested, the majority of arrestees are not convicted, and the majority of convicted defendants are not punished. While it is conventionally assumed that the sphere of influence of the police is limited to the apprehension of the offender, we will see in the next chapter that police practices may have an equally strong influence on the attrition that occurs between arrest and conviction.

Notes

1. U.S. Department of Justice, National Crime Panel of the Law Enforcement Assistance Administration, *Victimization Surveys in 13 American Cities* (Washington, D.C.: Government Printing Office, 1975), pp. 247-49.
2. *Ibid.*, p. 247.
3. U.S. Bureau of the Census, *Statistical Abstract of the United States: 1972* (Washington, D.C.: Government Printing Office, 1972), p. 23.
4. See, for example, Marvin Wolfgang, "Crime in a Birth Cohort," *The Aldine Crime and Justice Annual*, Sheldon L. Messinger, ed., (Chicago: Aldine, 1973), p. 112; also Jacob Belkin, Alfred Blumstein, and William Glass, "Recidivism as a Feedback Process: An Analytical Model and Empirical Validation," *Journal of Criminal Justice*, vol. 1 (March 1973), pp. 7-26.
5. Institute for Law and Social Research, *Curbing the Repeat Offender: A Strategy for Prosecutors*, Publication no. 3, PROMIS Research Project (Washington, D.C., 1977), Exhibit 1.
6. *Ibid.*, Exhibit 3.

7. A related explanation is that persons who commit homicides tend to be older, and older persons are more likely to have arrest records; hence, homicide offenders are more likely to have records. Another possibility is that persons arrested for homicide are arrested because of their arrest records, not because the case is strong. However, the high conviction rate we find for homicide (42 percent, as compared with 29 percent for all other offenses) does not support this explanation.

8. These statistics are from Metropolitan Police Department, *Fiscal Year 1975 Annual Report* (Washington, D.C., 1976), pp. 34-49.

9. The U.S. Attorney has discretion to prosecute only those 16- and 17-year olds arrested for murder, forcible rape, first-degree burglary, armed robbery, and assault with intent to commit any of these offenses. *District of Columbia Code* (Washington, D.C.: Government Printing Office, 1973), Title 16, Section 2301(3)(A).

10. A number of other federal courts operate in the District of Columbia—including the Court of Claims, the Tax Court, and the Court of Military Appeals—but these courts have nationwide jurisdiction and have little, if anything, to do with "street crime" arrests, on which this report focuses.

11. In other jurisdictions, the local and federal prosecutors often negotiate such decisions in individual cases.

12. See note 9, above, and accompanying text.

13. The screening process and the Case Review Section are further discussed in Chapters 5 and 6.

14. This procedure follows Rule 5, *Superior Court Criminal Rules* (Washington, D.C.: Superior Court of the District of Columbia, 1977).

15. These programs include Project Crossroads and the First Offender Treatment program (both for misdemeanor defendants without prior convictions), the Rehabilitation Center for Alcoholics, and the Narcotics Diversion Project.

16. Pleas of guilty may be made by defendants at any time after misdemeanor arraignment or felony presentment, as long as a formal charge, information, or indictment has been filed against the defendant.

17. While these numbers may suggest that a small fraction of crimes are reported in the nation's capital, Washington actually fares quite well in the rate of reporting. We find it noteworthy that Washington ranks first among 13 cities surveyed in 1974 in the rate at which personal victimizations are reported to the police. U.S. Department of Justice, *Victimization Surveys*, pp. 22, 40, 60, 78, 96, 114, 134, 154, 174, 194, 212, 232, and 250.

18. These arrest statistics include juvenile arrests. Metropolitan Police Department, *Fiscal Year 1975 Annual Report*, pp. 41-43. Dividing the arrest numbers by the reported offense numbers gives a very crude estimate of the offense clearance rate; a single offense often gives rise to several arrests, and a single arrest often follows the commission of several offenses by the arrestee.

3. The Arrest

Our analysis of why arrests fail in the courts begins with a focus on the arrest. We concentrate this analysis on the three basic arrest factors that are recorded in PROMIS, which we described in Chapter 1: the recovery of tangible evidence, the securing of witnesses, and the span of time that elapses between the offense and the arrest.

In the first section of this chapter, we give an overview of arrests. In the second, we describe the manner in which tangible evidence and witnesses vary by major crime group: robberies, other violent offenses, nonviolent property offenses, and victimless crimes. For each crime group, we analyze the effects of tangible evidence and witnesses on the likelihood of conviction.

The third section focuses on the delay between the offense and the arrest. After describing delay in apprehension by major crime group, we analyze the effect of delay on the likelihood of prosecution and conviction, taking into account the effects of tangible evidence and witnesses, again by crime group.

AN OVERVIEW OF ARRESTS IN THE DISTRICT OF COLUMBIA

In 1974 about 17,500 adult arrests for felony and serious misdemeanor offenses (punishable by six months or more of incarceration) were brought to the Superior Court in the District of Columbia. Eighty-five percent of these arrests were recorded as having been made by the Metropolitan Police Department. The charges cited by the police in these arrests reflect an assortment of offenses ranging from homicide, rape, and robbery to gambling, prostitution, and marijuana possession. For convenience, we aggregate the full range of offenses that gave rise to the arrests into five major crime groups, based on the most serious charge cited by the police: robbery, all other violent crimes (including homicide, rape, and assault), nonviolent property crimes (including burglary and larceny), victimless crimes (including drug offenses, prostitution, and gambling), and all other crimes (including gun possession and bail violations). Exhibit 3.1 depicts the distribution of arrests by major crime group and by whether the arrest was made by an MPD officer. Officers of the MPD made the vast majority of arrests in each of these offense groups, ranging from 89 percent of all robbery arrests to 79 percent of all arrests for property offenses other than robbery.

As for what happens to these arrests in court, the failure of arrests to end in conviction appears to be a common phenomenon nationwide. In the District of Columbia, less than 30 percent of all arrests brought to the Superior Court Division of the U.S. Attorney's Office in 1974 were re-

EXHIBIT 3.1

ARRESTS, BY MAJOR CRIME GROUP,
METROPOLITAN POLICE DEPARTMENT AND OTHER
(DISTRICT OF COLUMBIA, 1974)

Crime group	Arrests made by: Metropolitan Police Department	other[a]	all police
Robbery	1,745	210	1,955
Other violent	2,801	375	3,176
Nonviolent property	5,189	1,373	6,562
Victimless	3,178	481	3,659
Other	1,952[b]	230	2,182
All offenses	14,865	2,669	17,534

Source: Prosecutor's Management Information System (PROMIS).

[a]Includes U.S. Park Police, U.S. Capitol Police, Executive Protective Service, private security guards, affiliation not recorded, other.

[b]Includes 968 arrests for illegal possession of weapons, 710 arrests for fugitivity, and 274 arrests for a wide variety of other offenses.

EXHIBIT 3.2

CONVICTIONS AS A PERCENTAGE OF ARRESTS, BY CRIME GROUP,
METROPOLITAN POLICE DEPARTMENT AND OTHER
(DISTRICT OF COLUMBIA, 1974)

Crime group	Arrests made by: Metropolitan Police Department	other[a]	all police
Robbery	32%	31%	32%
Other violent	26%	27%	26%
Nonviolent property	31%	33%	32%
Victimless	25%	30%	25%
Other	34%	31%	34%
All offenses	29%	31%	30%

Source: Prosecutor's Management Information System (PROMIS).

Note: The convictions refer to the cases in which the arrest was made in 1974; many of these convictions occurred in 1975.

[a]Includes U.S. Park Police, U.S. Capitol Police, Executive Protective Service, private security guards, affiliation not recorded, other.

solved as convictions. Exhibit 3.2 shows the conviction rates for the 1974 arrests described above, again by major crime group and by whether or not the officer was a member of the MPD. We see that the conviction rates for the arrests made by MPD officers are basically similar to those for the arrests made by other officers.

TANGIBLE EVIDENCE AND WITNESSES

With few exceptions, the success of an arrest in court depends most crucially on the strength of the evidence that the arresting police officer manages to bring to the prosecutor. As noted in the preceding chapter, probable cause that a crime was committed and that the arrestee committed it must be established early in the court process. Both issues are determined invariably on the basis of the evidence obtained by the police. All evidence, however, is not the same. Accordingly, it is useful to analyze how specific types of evidence brought by the police influence court outcomes.

The evidence in criminal cases is of two basic types: tangible and testimonial. We focus in this section on the ability of the MPD officers to recover tangible evidence, such as stolen property and weapons, and to secure witnesses, by major crime group.[1] We also examine the importance of tangible evidence and witnesses to the successful prosecution of arrests in each offense group. We begin with one of the most fearsome of all crimes—robbery.

Robbery

The Metropolitan Police Department brought more than 1,700 robbery arrests to the Superior Court in 1974. The data indicate that the MPD recovered tangible evidence in half of these arrests, and secured at least two lay witnesses in 48 percent of them.

Exhibit 3.3 compares these numbers with corresponding ones for the other offense groups. Note that the police tended more often to secure at least two lay witnesses in arrests for robbery than in arrests for any of the other offense groups.

EXHIBIT 3.3

OBTAINING TANGIBLE EVIDENCE AND WITNESSES, BY CRIME GROUP (MPD ARRESTS, 1974)

Crime group	Number of arrests	Percentage of arrests in which: tangible evidence was recovered	Percentage of arrests in which: at least two lay witnesses were obtained
Robbery	1,745	50%	48%
Other violent	2,801	32%	39%
Nonviolent property	5,189	65%	36%
Victimless	3,178	63%	2%
Other	1,952	55%	7%
All offenses	14,865	55%	27%

Source: Prosecutor's Management Information System (PROMIS).

What gives special meaning to these numbers is that the conviction rate for the robbery arrests in which tangible evidence was recovered, as well as that for arrests in which two or more lay witnesses were secured,

is significantly higher than in other robbery arrests. This can be seen in Exhibit 3.4: the number of convictions per 100 robbery arrests was 60 percent higher when tangible evidence was recovered than when it was not, and it was more than 40 percent higher when the MPD secured at least two lay witnesses than when they did not. Similar results are obtained under the application of more rigorous statistical techniques, such as those reported in Appendix B.[2]

EXHIBIT 3.4

CONVICTION RATES, BY STRENGTH OF EVIDENCE AND VICTIM-ARRESTEE RELATIONSHIP (MPD ROBBERY ARRESTS, 1974)

Category	Number of arrests	Convictions per 100 arrests
All MPD robbery arrests:	1,745	32
Tangible evidence recovered	880	40[a]
No tangible evidence	865	25
Two or more lay witnesses	830	38[a]
Fewer than two lay witnesses	915	27
Stranger-to-stranger	1,139	34[a]
Other[b]	606	30

Source: Prosecutor's Management Information System (PROMIS).

[a]Difference is significant at .01.

[b]Includes arrests in which the relationship was not recorded.

Also evident in Exhibit 3.4 is the finding that convictions are more likely to occur in MPD robbery arrests when the victim did not know his or her assailant prior to the occurrence of the offense.[3] More can be learned about this result by analyzing the codes used by the prosecutor to indicate his reason(s) for rejecting arrests at the time of initial screening and for dismissing them after having accepted them at screening. We find that 205 of the 1,745 MPD robbery arrests made in 1974 were rejected or dismissed by the prosecutor due to some sort of witness problem.[4] Specific factors cited by the prosecutor include the following: witness failed to appear, witness appeared but signed a statement indicating unwillingness to cooperate, witness gave garbled or inconsistent testimony, and witness indicated reluctance to testify. Of particular relevance is the fact that 9 percent of all stranger-to-stranger robbery arrests made by the MPD in 1974 were rejected or dismissed due to a witness problem, while 17 percent of all other robbery arrests made by the MPD in 1974 were dropped by the prosecutor with the indication of a witness problem. When the 205 cases dropped due to witness problems are ignored, the difference between the conviction rate for stranger-to-stranger robbery arrests and that for other robbery arrests is considerably smaller. Hence, we attribute much of the difference between the conviction rate for stranger-to-stranger robbery arrests and for other

robbery arrests to testimony problems that are unique to nonstranger arrests.[5]

Further insight into testimony problems that cause robbery arrests to fail in court can be obtained by examining the extent to which the prosecutor's rejecting or dismissing a robbery case and indicating a witness problem as the reason is related to the number of witnesses cited by the police. Recall that at least two witnesses were cited in 48 percent of all robbery arrests (Exhibits 3.3 and 3.4). We find that only 7 percent of these cases were dropped due to a witness problem, while 16 percent of the robbery cases with fewer than two witnesses were so dropped. These differences are especially great in the stranger-to-stranger robbery category: rejections due to witness problems are more than twice as likely to occur in arrests with fewer than two witnesses than they are in arrests with at least two witnesses. Hence, to the extent that the police have control over the number of witnesses secured at the time of arrest, it appears that the prospects of conviction are enhanced considerably when the police manage to bring more witnesses to court, especially in stranger-to-stranger robbery episodes.

Violent Offenses Other than Robbery

In 1974 the MPD made 2,801 arrests for violent offenses other than robbery: homicide, sexual assault, aggravated assault, and simple assault. We saw in Exhibit 3.3 that witnesses were less often secured in arrests for this group of offenses than in arrests for robbery, and that tangible evidence was less often recovered in these arrests. Exhibit 3.5 elaborates on these findings, indicating lower rates of obtaining both tangible evidence and witnesses in each of the violent crime categories than for robbery.

EXHIBIT 3.5

OBTAINING TANGIBLE EVIDENCE AND WITNESSES IN ARRESTS FOR VIOLENT OFFENSES OTHER THAN ROBBERY
(MPD ARRESTS, 1974)

Offense	Number of arrests	Percentage of arrests in which: tangible evidence was recovered	Percentage of arrests in which: at least two lay witnesses were obtained
Homicide	236	9%	21%
Sexual assault	348	9%	45%
Aggravated assault	1,642	47%	40%
Simple assault	575	12%	38%
Total	2,801	32%	39%

Source: Prosecutor's Management Information System (PROMIS).

The differences in the rates at which the police obtained tangible evidence and witnesses from one violent offense category to another are substantial. Homicide has low rates of both.[6] Tangible evidence was recovered at a particularly high rate in arrests for aggravated assault, a crime that usually involves a weapon. And at least two witnesses were secured in 45 percent of all arrests for sexual assault, which is a higher rate than for any violent offense other than robbery; in sexual assaults involving no witnesses other than the victim, the arrest was, evidently, often not made, perhaps in many cases because the victim did not call for the police.

As in robbery cases, we find that conviction tends to be substantially more likely when tangible evidence is recovered and when at least two witnesses are cited on the police reports brought to the prosecutor. Exhibits 3.6 and 3.7 display these effects by specific violent crime category.

EXHIBIT 3.6

CONVICTION RATES IN ARRESTS FOR VIOLENT OFFENSES OTHER THAN ROBBERY, BY RECOVERY OF TANGIBLE EVIDENCE
(MPD ARRESTS, 1974)

Offense	Tangible evidence recovered	No tangible evidence recovered	Total
Homicide:			
Conviction rate	59%	42%	44%
Arrests	22	214	236
Sexual assault:			
Conviction rate	38%	24%	26%
Arrests	32	316	348
Aggravated assault:			
Conviction rate	28%	20%*	24%
Arrests	767	875	1,642
Simple assault:			
Conviction rate	41%	23%*	25%
Arrests	71	504	575
Total:			
Conviction rate	30%	24%*	26%
Arrests	892	1,909	2,801

Source: Prosecutor's Management Information System (PROMIS).
*Difference significant at .01.

Conviction rates in violent offenses differ also according to the relationship between the victim and arrestee, as we observed for robbery in Exhibit 3.4. These differences are shown by category of violent offense in Exhibit 3.8. Note that conviction rates in stranger-to-stranger violent offenses other than robbery are, on the whole, nearly twice as large as they are in intrafamily violent episodes, and they are significantly larger than those for the aggregate of all nonstranger violent offenses other

EXHIBIT 3.7

CONVICTION RATES IN ARRESTS FOR VIOLENT OFFENSES OTHER THAN ROBBERY, BY NUMBER OF WITNESSES
(MPD ARRESTS, 1974)

Offense	Two or more lay witnesses	Fewer than two lay witnesses	Total
Homicide:			
Conviction rate	54%	41%	44%
Arrests	50	186	236
Sexual assault:			
Conviction rate	35%	18%[a]	26%
Arrests	155	193	348
Aggravated assault:			
Conviction rate	38%	15%[a]	24%
Arrests	663	979	1,642
Simple assault:			
Conviction rate	40%	16%[a]	25%
Arrests	219	356	575
Total:			
Conviction rate	39%	18%[a]	26%
Arrests	1,087	1,714	2,801

Source: Prosecutor's Management Information System (PROMIS).

[a]Difference significant at .01.

EXHIBIT 3.8

CONVICTION RATES IN ARRESTS FOR VIOLENT OFFENSES OTHER THAN ROBBERY, BY RELATIONSHIP BETWEEN VICTIM AND ARRESTEE
(MPD ARRESTS, 1974)

Offense	Strangers	Intrafamily	Other[a]	Total
Homicide:				
Conviction rate	41%	38%	46%	44%
Arrests	78	24	134	236
Sexual assault:				
Conviction rate	27%	21%	25%	26%
Arrests	148	29	171	348
Aggravated assault:				
Conviction rate	31%[b]	18%[b]	23%	24%
Arrests	392	239	1,011	1,642
Simple assault:				
Conviction rate	31%[b]	8%[b]	26%	25%
Arrests	190	73	312	575
Total:				
Conviction rate	31%[b]	17%[b]	26%	26%
Arrests	808	365	1,628	2,801

Source: Prosecutor's Management Information System (PROMIS).

[a]Includes arrests in which the relationship was not recorded.

[b]Difference from all other victim-arrestee relationship categories combined is significant at .01.

than robbery. This suggests, as with robbery, that arrests for violent offenses involving strangers are less likely to have testimony problems than are violent offenses involving acquaintances or members of the same family.

The existence of testimony problems in violent offenses involving nonstrangers is revealed more explicitly in Exhibit 3.9. We see that arrests involving violent offenses other than robbery are much less likely to be rejected or subsequently dismissed by the prosecutor due to a witness problem when the victim did not know his or her assailant and, as before, when the police secured at least two witnesses at the time of the arrest.

EXHIBIT 3.9

ARRESTS FOR VIOLENT OFFENSES OTHER THAN ROBBERY, REJECTED BY THE PROSECUTOR DUE TO WITNESS PROBLEMS, BY RELATIONSHIP BETWEEN VICTIM AND ARRESTEE AND NUMBER OF WITNESSES
(MPD ARRESTS, 1974)

Category	Strangers	Family	Other[a]	Total
Fewer than two witnesses:				
Witness-related rejections	96	123	332	551
Arrests	455	252	1,007	1,714
Rejection rate	21%[b]	49%[b]	33%	32%
At least two witnesses:				
Witness-related rejections	42	34	125	201
Arrests	353	113	621	1,087
Rejection rate	12%[b]	30%[b]	20%	18%
All violent offenses other than robbery:				
Witness-related rejections	138	157	457	752
Arrests	808	365	1,628	2,801
Rejection rate	17%[b]	43%[b]	28%	27%

Source: Prosecutor's Management Information System (PROMIS).

[a]Includes arrests in which the relationship was not recorded.

[b]Difference from all other victim-arrestee relationship categories combined is significant at .01.

[c]Difference is significant at .01.

Nonviolent Property Offenses

More arrests were made for property offenses than for any of the other crime groups, as was shown in Exhibit 3.1. We reported also that while tangible evidence was recovered in nearly two-thirds of these cases, and two or more witnesses in more than a third, nearly 70 percent of the arrestees were not convicted. We now look behind these numbers, starting with an examination of specific property offense categories—larceny, burglary, unlawful entry, and other.

As we have seen before, substantial differences emerge between specific crime categories within the larger crime group. This can be seen in Exhibit 3.10. Tangible evidence was recovered in as many as 85 per-

EXHIBIT 3.10

OBTAINING TANGIBLE EVIDENCE AND WITNESSES IN NONVIOLENT PROPERTY OFFENSES
(MPD ARRESTS, 1974)

Offense	Number of arrests	Percentage of arrests in which: tangible evidence was recovered	Percentage of arrests in which: at least two lay witnesses were obtained
Larceny	2,185	85%	28%
Burglary	1,432	54%	46%
Breaking and entering	326	8%	17%
Other[a]	1,246	57%	41%
Total	5,189	65%	36%

Source: Prosecutor's Management Information System (PROMIS).
[a]Includes auto theft, property destruction, forgery, fraud, and embezzlement.

EXHIBIT 3.11

CONVICTION RATES IN ARRESTS FOR NONVIOLENT PROPERTY OFFENSES, BY RECOVERY OF TANGIBLE EVIDENCE
(MPD ARRESTS, 1974)

Offense	Tangible evidence recovered	No tangible evidence recovered	Total
Larceny:			
Conviction rate	33%	21%[a]	31%
Arrests	1,860	325	2,185
Burglary:			
Conviction rate	47%	34%[a]	41%
Arrests	769	663	1,432
Breaking and entering:			
Conviction rate	16%	15%	15%
Arrests	25	301	326
Other:[b]			
Conviction rate	26%	23%	24%
Arrests	704	542	1,246
Total:			
Conviction rate	34%	25%[a]	31%
Arrests	3,358	1,831	5,189

Source: Prosecutor's Management Information System (PROMIS).
[a]Difference is significant at .01.
[b]Includes auto theft, property destruction, forgery, fraud, and embezzlement.

EXHIBIT 3.12

CONVICTION RATES FOR NONVIOLENT PROPERTY OFFENSES, BY NUMBER OF WITNESSES
(MPD ARRESTS, 1974)

Offense	Two or more lay witnesses	Fewer than two lay witnesses	Total
Larceny:			
Conviction rate	39%	28%[a]	31%
Arrests	613	1,572	2,185
Burglary:			
Conviction rate	45%	38%[a]	41%
Arrests	665	767	1,432
Breaking and entering:			
Conviction rate	34%	11%[a]	15%
Arrests	56	270	326
Other:[b]			
Conviction rate	36%	16%[a]	24%
Arrests	513	733	1,246
Total:			
Conviction rate	40%	26%[a]	31%
Arrests	1,847	3,342	5,189

Source: Prosecutor's Management Information System (PROMIS).

[a]Difference is significant at .01.

[b]Includes auto theft, property destruction, forgery, fraud, and embezzlement.

cent of all larceny arrests, and as few as 8 percent of all arrests for breaking and entering. At least two lay witnesses were obtained at a rate nearly three times as high in burglary offenses as in the crime of unlawful entry.

And as with robbery and other violent offenses, the data support a common sense notion—that tangible evidence and witnesses obtained by the police profoundly influence the outcomes of arrests in court. This can be seen in Exhibits 3.11 and 3.12. The conviction rate was significantly higher in arrests made in 1974 for nonviolent property offenses when tangible evidence—in this case, stolen property—was recovered, with particularly sharp differences in larcenies and burglaries. The probability of conviction was 40 percent when two or more witnesses were obtained in arrests for nonviolent property crime, and only 26 percent when fewer than two witnesses were obtained.

With regard to the effect of the relationship between the victim and arrestee on the conviction rates, Exhibit 3.13 reveals, again, that arrests in stranger-to-stranger episodes have higher conviction rates than other arrests, although the difference is considerably smaller here, for the property offenses, than for the violent offense categories (Exhibit 3.8).

Victimless and Other Offenses

The remaining offenses, while generally regarded as less serious than those discussed above, are nonetheless important, if only because they

EXHIBIT 3.13

CONVICTION RATES FOR NONVIOLENT PROPERTY OFFENSES, BY STRANGER AND NONSTRANGER EPISODES
(MPD ARRESTS, 1974)

Offense	Stranger episodes	Other[a]	Total
Larceny:			
Conviction rate	33%	29%	31%
Arrests	1,110	1,075	2,185
Burglary:			
Conviction rate	44%	39%	41%
Arrests	603	829	1,432
Breaking and entering:			
Conviction rate	13%	15%	15%
Arrests	106	220	326
Other:[b]			
Conviction rate	26%	23%	24%
Arrests	607	639	1,246
Total:			
Conviction rate	33%	30%[c]	31%
Arrests	2,426	2,763	5,189

Source: Prosecutor's Management Information System (PROMIS).

[a]Includes arrests in which the relationship was not recorded.

[b]Includes auto theft, property destruction, forgery, fraud, and embezzlement.

[c]Difference is significant at .01.

EXHIBIT 3.14

TANGIBLE EVIDENCE, WITNESSES, AND CONVICTION RATES IN VICTIMLESS AND MISCELLANEOUS OFFENSES
(MPD ARRESTS, 1974)

Crime group	Number of arrests	Percentage of offenses in which: tangible evidence was recovered	at least two lay witnesses were obtained	arrestee was convicted
Victimless:				
Sex	894	3%	0%	23%
Drugs	1,968	88%	3%	24%
Gambling	316	80%	0%	31%
Miscellaneous:				
Weapons	968	90%	8%	49%
Fugitivity	710	8%	2%	18%
Other	274	51%	19%	22%

Source: Prosecutor's Management Information System (PROMIS).

constituted more than a third of the arrests made in the District of Columbia in 1974. Exhibit 3.14 displays the number of arrests in each of the remaining major offense categories, the extent to which tangible evidence and witnesses were obtained, and the conviction rate in each. We find tangible evidence recovered in a large proportion of the arrests for illegal drugs, gambling, and weapon offenses; two or more witnesses were rarely needed in most of the offenses shown.[7]

DELAY IN APPREHENSION

A potentially important determinant of the success of police operations is the amount of time that elapses between the offense and the arrest. It seems reasonable to expect that rapid police response to an immediately made call for service would increase the chances of arresting the offender, recovering tangible evidence, and securing eyewitnesses, and thus would increase the likelihood that the offender, if arrested, would be convicted. This expectation is reflected in a report of a national commission that sought ways of improving police productivity:

> There is no definitive relationship between response time and deterrence, but professional judgment and logic do suggest that the two are related in a strong enough manner to make more rapid response important.[8]

A more recent Police Foundation study of police response time was less optimistic:

> In conclusion, the usefulness of manipulating factors that affect response time must be judged in light of the apparently limited consequences of response time. Further police efforts to reduce response time would be costly, and the benefits might be only marginal.[9]

Since the data described in Chapter 1 contain information about the time of the offense and the time of the arrest, we have an opportunity to shed additional light on the delay question. Specifically, we can examine the manner in which the delay in apprehension varies by crime group, and we can analyze the effects of these delays on both the evidence obtained and the convictability of the arrests brought to the prosecutor.

An Overview of Delay

The delay in apprehension tends to be longest in robberies, with less than half of all arrests made within 30 minutes of the offense (see Exhibit 3.15). Violent offenses other than robbery are next, with less than 60 percent of the arrests made within 30 minutes of the offense. That the delay tends to be longer in the violent offenses than in the nonviolent property offenses appears to be due primarily to a greater tendency for the offense and arrest times to coincide in nonviolent property crimes than in violent crimes; when these on-the-spot arrests are ignored, the time distributions of delay for violent and property crimes are quite similar. Delay tends to be shortest of all, to no surprise, in the victimless crime group. Both the arrest and offense usually occur simultaneously.

In short, we see that these crime groups are generally quite dissimilar from one another as regards delay, which attests to the importance of analyzing them separately.

EXHIBIT 3.15

ELAPSED TIME FROM OFFENSE TO ARREST, BY CRIME GROUP
(MPD ARRESTS, 1974)

Crime group	Number of arrests with recorded offense and arrest times	Percentage of previous column with no delay	Percentage of arrests in which apprehension was within:		
			5 minutes of offense[a]	30 minutes of offense[a]	24 hours of offense[a]
Robbery	1,680	6%	20%	45%	77%
Other violent	2,697	14%	28%	58%	86%
Nonviolent property	4,787	23%	42%	69%	89%
Victimless	3,116	56%	85%	96%	99%
Other	1,668	49%	68%	80%	91%
All offenses	13,948[b]	30%	49%	71%	89%

Source: Prosecutor's Management Information System (PROMIS).

[a]Includes previous column.

[b]Ninety-four percent of all MPD arrests recorded in the data.

The five delay categories used here—no delay, 1 to 5 minutes between the offense and the arrest, 6 to 30 minutes, 31 minutes to 24 hours, and more than 24 hours—have been constructed to reflect five fairly distinct police response situations. The no-delay category reflects the arrest in which the police see the offense as it occurs. The next two categories are intended primarily to reflect responses to calls for service, with the 1-to-5-minute delay category a product of a rapid police response to an immediately made call, and the 6-to-30-minute delay category a product of the more common situation in which the call is not made promptly or the police do not arrive immediately, or both. The last two categories are designed to reflect situations in which barriers impede the rapid apprehension of the suspect—barriers such as long delays between the offense and the call for service, and difficulties in locating the arrestee. While the 30-minute-to-24-hour category is likely to contain a mix of arrests by patrol personnel and investigators, the over-24-hour category is likely to consist predominantly of arrests that follow investigation.

Robbery

We saw in Exhibit 3.15 that the delay from offense to arrest tends to be longer for robbery than for other offenses. Robbery arrests are rarely made on the spot and, quite often, are made more than 24 hours after the offense. That nearly one-fourth of all MPD robbery arrests made in 1974 were in this latter delay category may indicate that criminal investigation plays an important role in robbery episodes. The arrests made after 24

hours may well have resulted primarily from routine police procedures rather than the sort of ingenuity around which popular detective novels have been written.[10] In any event, we find that 232 of the 380 robbery arrests made more than 24 hours after the offense were recorded as stranger-to-stranger episodes, which are inherently more difficult to solve than those in which identification is not a serious problem.[11]

Of particular importance is the question: Does apprehension delay in robbery episodes hinder the conviction of those arrests? We can shed some light on this question by examining the conviction rates in robbery arrests by delay category. Having found higher conviction rates in stranger-to-stranger robbery arrests, as shown in Exhibit 3.4, and because of results reported in Appendix B, we stratify this analysis of delay and conviction rates by stranger-to-stranger and other robbery arrests. These results are displayed in Exhibit 3.16. We combine the first two delay categories shown in Exhibit 3.15 here because of the small number of stranger-to-stranger robbery arrests made on the spot.

EXHIBIT 3.16

CONVICTION RATES IN ROBBERY ARRESTS, BY ELAPSED TIME AND WHETHER A STRANGER-TO-STRANGER OFFENSE (MPD ARRESTS, 1974)

Victim-arrestee relationship	Elapsed time from offense to arrest: 0 to 5 minutes	6 to 30 minutes	½ hour to 24 hours	more than 24 hours	All MPD robbery arrests
Stranger-to-stranger:					
Conviction rate	43%	37%	32%	23%	34%
Arrests	230	304	330	232	1,096
Other[a] robbery arrests:					
Conviction rate	29%	34%	27%	30%	30%
Arrests	113	114	209	148	584
All robbery arrests:					
Conviction rate	38%	36%	30%	26%	32%
Arrests	343	418	539	380	1,680

Source: Prosecutor's Management Information System (PROMIS).

[a]Includes arrests in which the relationship was not recorded.

In stranger-to-stranger robberies, we find a sharp and steady decline in the conviction rate as the span of time between the offense and the arrest increases: the arrestee was convicted in 43 percent of the cases in which the arrest was made within 5 minutes of the offense, and in only 23 percent of the cases in which the arrest followed the offense by more than 24 hours. The time-span between offense and arrest does not appear to influence conviction rates in nonstranger robbery arrests in the strong, systematic manner that is generally revealed for the stranger-to-stranger group. This may be partly due to the possibility that nonstranger robbery arrests made after a long delay are not as likely to

be based on a questionable identification of the suspect as are other robbery arrests made after a long delay.

We can obtain further insight into the value of prompt apprehension in stranger-to-stranger robbery arrests by examining the ability of the police to obtain evidence as a result of rapid arrest. Exhibit 3.17 shows the rates at which tangible evidence was recovered and witnesses were secured in these arrests, by delay category.

EXHIBIT 3.17

RATES AT WHICH TANGIBLE EVIDENCE WAS RECOVERED, WITNESSES WERE OBTAINED, AND ARRESTEES WERE CONVICTED IN STRANGER-TO-STRANGER ROBBERY ARRESTS, BY ELAPSED TIME
(MPD ARRESTS, 1974)

MPD stranger-to-stranger robbery arrests in which:	Elapsed time from offense to arrest: 0 to 5 minutes	6 to 30 minutes	½ hour to 24 hours	more than 24 hours	All MPD stranger-to-stranger robbery arrests
Tangible evidence was recovered	67%	63%	49%	31%	53%
Two or more witnesses were obtained	42%	50%	51%	51%	49%
Arrestee was convicted	43%	37%	32%	23%	34%
Number of MPD stranger-to-stranger robbery arrests	230	304	330	232	1,096

Source: Prosecutor's Management Information System (PROMIS).

Note that tangible evidence was substantially more likely to be recovered in stranger-to-stranger robbery episodes when the arrest followed promptly after the offense. This is surely to be expected. This would appear also to explain, at least in part, why conviction is more likely in those episodes when the arrest is made promptly after the offense.

At the same time, however, the differences we find in both conviction rates and tangible evidence recovery rates, between the less-than-6-minutes and the 6-to-30-minutes categories, may not be sufficiently large to warrant the costly measures that may be necessary to reduce response time in this range significantly.

To our initial surprise, the likelihood of having at least two witnesses was somewhat less when the stranger-to-stranger robbery arrest was made within 5 minutes after the offense (42 percent) than when it was not (51 percent). One plausible explanation for this is that arrests made within 5 minutes of the offense tend to be made because a police officer happened to be nearby, whereas those arrests made more than 5 minutes after the offense tend more often to be made precisely because more than one person witnessed the crime.

The support of witnesses in robbery arrests made after some delay is indicated in other ways as well. We find that witness problems, of the sort described earlier in this chapter, are considerably less likely to

occur in robbery cases in which the arrest followed the offense after a relatively long delay. This can be seen in Exhibit 3.18. Witness problems are more than twice as likely to occur in robbery arrests made within 24 hours after the offense than they are when the arrest is made after a 24-hour delay. This is true in spite of the fact that cases with longer delay in apprehension tend to be less convictable, as shown in Exhibits 3.16 and 3.17.

Violent Offenses Other than Robbery

Arrests for violent offenses other than robbery—including homicide, rape, aggravated assault, and simple assault—tend to be made sooner after the offense than arrests for robbery, but after a longer delay than for other offenses. This was shown in Exhibit 3.15.

EXHIBIT 3.18

ROBBERY ARRESTS REJECTED OR DISMISSED DUE TO WITNESS PROBLEMS, BY ELAPSED TIME AND WHETHER A STRANGER-TO-STRANGER OFFENSE (MPD ARRESTS, 1974)

Victim-arrestee relationship	Elapsed time from offense to arrest: 0 to 5 minutes	6 to 30 minutes	½ hour to 24 hours	more than 24 hours	All MPD robbery arrests
Stranger-to-stranger robbery arrests:					
Witness problems	22	35	31	11	99
Arrests	230	304	330	232	1,096
Witness problem rate	10%	12%	9%	5%	9%
Other robbery arrests:[a]					
Witness problems	24	27	37	14	102
Arrests	113	114	209	148	584
Witness problem rate	27%	29%	20%	10%	20%
All robbery arrests:					
Witness problems	46	62	68	25	201
Arrests	343	418	539	380	1,680
Witness problem rate	13%	15%	13%	7%	12%

Source: Prosecutor's Management Information System (PROMIS).

[a]Includes arrests in which the relationship was not recorded.

Since violent offenses tend more often to be crimes of passion than do those in the other offense groups, it is well to examine apprehension delay for this group by whether the offense was a stranger-to-stranger, intrafamily, or other type of episode. We see these results in Exhibit 3.19. We find somewhat longer delays in apprehension in the intrafamily category than in the other categories, with the shortest delays in the stranger-to-stranger category.

These results are consistent with the proposition that if the police are to make an arrest at all in a stranger-to-stranger violent offense, it had better be made fairly soon after the offense, or else it is not likely to be made. In nonstranger violent crimes, the identification of the suspect

EXHIBIT 3.19

ELAPSED TIME IN VIOLENT CRIMES OTHER THAN ROBBERY,[a] BY RELATIONSHIP BETWEEN VICTIM AND ARRESTEE
(MPD ARRESTS, 1974)

Victim-arrestee relationship	Number of arrests with recorded offense and arrest time	Percentage of previous column with no delay	Percentage of offenses in which apprehension was within:		
			5 minutes of offense[b]	30 minutes of offense[b]	24 hours of offense[b]
Strangers	787	19%	39%	65%	88%
Intrafamily	345	5%	16%	52%	86%
Other[c]	1,565	13%	26%	56%	85%
All violent offenses other than robbery	2,697	14%	28%	58%	86%

Source: Prosecutor's Management Information System (PROMIS).

[a]Includes homicides, sexual assaults, aggravated assaults and simple assaults.

[b]Includes previous column.

[c]Includes arrests in which the relationship was not recorded.

tends not to be a problem, hence a higher percentage of these arrests are made five minutes or more after the offense.

Conviction rates in arrests for violent offenses other than robbery appear, at best, to be related erratically to the delay from offense to arrest, even in the stranger-to-stranger category. These results are shown in Exhibit 3.20. We do not find that arrestees in violent offenses other than robbery are generally more likely to be convicted when the arrest follows immediately after the offense; indeed, the highest conviction rates are found for the arrests made more than 24 hours after the offense. The findings for the strangers category may indicate that some arrests made within five minutes of the offense, often characterized by a rush of events, could involve either mistaken identity or cases that are really nonstranger episodes in which the victim refused to acknowledge knowing the arrested person.

The results of Exhibit 3.20 do not necessarily imply that prompt response to calls for violent offenses other than robbery fails to increase the likelihood that the *offender* will be convicted; the likelihood of conviction may in fact be enhanced by prompt police response through an increase in the likelihood of apprehension. Note that the conviction rates we report are based on *arrests*, not offenses.

Prompt arrest in violent offenses other than robbery does appear to influence the retrieval of tangible evidence, as can be observed in Exhibit 3.21. However, we do not find this effect, in combination with the effect of tangible evidence on the likelihood of conviction (Exhibit 3.6), to constitute a sufficient force to cause prompt arrest to be a substantial influence on the conviction rates for violent offenses other than robbery (Exhibit 3.20).

EXHIBIT 3.20

CONVICTION RATES IN ARRESTS FOR VIOLENT OFFENSES OTHER THAN ROBBERY,[a] BY ELAPSED TIME AND RELATIONSHIP BETWEEN VICTIM AND ARRESTEE
(MPD ARRESTS, 1974)

Victim-arrestee relationship	Elapsed time from offense to arrest: 0 to 5 minutes	6 to 30 minutes	½ hour to 24 hours	more than 24 hours	All MPD violent offense arrests (except robbery)
Stranger-to-stranger:					
Conviction rate	24%	36%	31%	38%	31%
Arrests	307	206	178	96	787
Intrafamily:					
Conviction rate	17%	13%	16%	34%	17%
Arrests	54	125	116	50	345
Other:[b]					
Conviction rate	27%	25%	25%	29%	26%
Arrests	400	469	466	230	1,565
All MPD violent offense arrests (except robbery):					
Conviction rate	25%	26%	25%	32%	26%
Arrests	761	800	760	376	2,697

Source: Prosecutor's Management Information System (PROMIS).

[a]Includes homicides, sexual assaults, aggravated assaults, and simple assaults.

[b]Includes arrests in which the relationship was not recorded.

EXHIBIT 3.21

RATES AT WHICH TANGIBLE EVIDENCE WAS RECOVERED AND WITNESSES WERE OBTAINED IN ARRESTS FOR VIOLENT OFFENSES OTHER THAN ROBBERY,[a] BY ELAPSED TIME
(MPD ARRESTS, 1974)

Arrests for violent offenses (except robbery) in which:	Elapsed time from offense to arrest: 0 to 5 minutes	6 to 30 minutes	½ hour to 24 hours	more than 24 hours	All arrests for violent offenses other than robbery
Tangible evidence was recovered	41%	43%	23%	10%	32%
Two or more witnesses were obtained	31%	42%	42%	44%	39%
Number of arrests for violent offenses (except robbery)	761	800	760	376	2,697

Source: Prosecutor's Management Information System (PROMIS).

[a]Includes homicides, sexual assaults, aggravated assaults, and simple assaults.

It can also be inferred from the results of Exhibit 3.21 that arrests made after longer delays were frequently a product of the support of multiple witnesses. As with robbery (Exhibit 3.17), more witnesses tend to be associated with cases in which the duration between offense and arrest is longer. These results are also consistent with our finding that the prosecutor is significantly less likely to reject or dismiss a case due to a witness problem when the arrest follows the violent offense by at least 24 hours (22 percent) than when it follows the offense by within 30 minutes (28 percent). This effect holds generally for each relationship group, as shown in Exhibit 3.22.[12]

Nonviolent Property Offenses

Over half of all arrests for property crimes other than robbery (discussed above) are made within 15 minutes of the offense (Exhibit 3.15). Unlike many of the violent offenses, if the suspect in a nonviolent property offense is not apprehended fairly quickly, it appears unlikely that an arrest will be made at all. The victims of property crimes are less likely to know the offender than are the victims of crimes involving assault,

EXHIBIT 3.22

ARRESTS FOR VIOLENT OFFENSES OTHER THAN ROBBERY,[a] REJECTED OR DISMISSED DUE TO WITNESS PROBLEMS, BY ELAPSED TIME AND VICTIM-ARRESTEE RELATIONSHIP
(MPD ARRESTS, 1974)

Victim-arrestee relationship	Elapsed time from offense to arrest: 0 to 5 minutes	6 to 30 minutes	½ hour to 24 hours	more than 24 hours	All MPD violent offense arrests (except robbery)
Stranger-to-stranger:					
Witness problems	55	42	27	10	134
Arrests	307	206	178	96	787
Witness problem rate	18%	20%	15%	10%	17%
Intrafamily:					
Witness problems	23	64	44	19	150
Arrests	54	125	116	50	345
Witness problem rate	43%	51%	38%	38%	43%
Other:[b]					
Witness problems	101	160	127	52	440
Arrests	400	469	466	230	1,565
Witness problem rate	25%	34%	27%	23%	28%
All MPD violent offense arrests (except robbery):					
Witness problems	179	266	198	81	724
Arrests	761	800	760	376	2,697
Witness problem rate	24%	33%	26%	22%	27%

Source: Prosecutor's Management Information System (PROMIS).

[a]Includes homicides, sexual assaults, aggravated assaults, and simple assaults.

[b]Includes arrests in which the relationship was not recorded.

hence the police very often have little or no basis on which to apprehend the thief or vandal.

When an arrest for a property offense *is* made after some delay, how does this appear to affect the convictability of the arrest? Results are given in Exhibit 3.23. Because the relationship between the victim and arrestee tends to be less of a factor in property offenses than in the violent offenses (Exhibits 3.8, 3.13, and Appendix B), we report results for delay in property offenses without stratifying by the relationship between the victim and the arrestee, as before. We find the conviction rate to be significantly higher when arrests for larceny and burglary follow quickly after their commission. This result is at least partly explained by a related finding: the rate at which tangible evidence is recovered in arrests for nonviolent property offenses declines steadily as the apprehension delay grows, much as we observed with robbery and other violent crimes (Exhibits 3.17 and 3.21). These results are shown in Exhibit 3.24.

EXHIBIT 3.23

CONVICTION RATES IN ARRESTS FOR NONVIOLENT PROPERTY OFFENSES, BY ELAPSED TIME
(MPD ARRESTS, 1974)

	Elapsed time from offense to arrest:				
Offense	0 to 5 minutes	6 to 30 minutes	½ hour to 24 hours	more than 24 hours	Total
Larceny:					
Conviction rate	34%	30%	29%	26%	31%
Arrests	991	545	338	179	2,053
Burglary:					
Conviction rate	43%	45%	40%	38%	42%
Arrests	360	405	395	222	1,382
Breaking and entering:					
Conviction rate	13%	17%	14%	—	15%
Arrests	197	86	36	3	322
Other:[a]					
Conviction rate	24%	24%	21%	27%	24%
Arrests	450	266	198	116	1,030

Source: Prosecutor's Management Information System (PROMIS).

[a]Includes auto theft, property destruction, forgery, fraud, and embezzlement.

As we reported earlier, when arrests are made after some time has elapsed following the offense, the arrest appears often to be a product of the assistance of additional witnesses. The results of Exhibit 3.24 provide a further indication of this. It is noteworthy, however, that the rate at which arrests are rejected or later dismissed by the prosecutor due to witness problems is unrelated to the delay between offense and arrest. This differs from our findings for violent offenses, as can be seen

by comparing the results reported in Exhibit 3.25 with those in Exhibits 3.18 and 3.22. Note also that witness problems are generally less likely to follow a property offense than they are a violent offense (Exhibits 3.22 and 3.25).

EXHIBIT 3.24

RATES AT WHICH TANGIBLE EVIDENCE WAS RECOVERED, WITNESSES WERE OBTAINED, AND ARRESTEES WERE CONVICTED IN ARRESTS FOR NONVIOLENT PROPERTY OFFENSES,[a] BY ELAPSED TIME
(MPD ARRESTS, 1974)

MPD arrests for nonviolent property offenses in which:	Elapsed time from offense to arrest: 0 to 5 minutes	6 to 30 minutes	½ hour to 24 hours	more than 24 hours	All MPD arrests for nonviolent property offenses
Tangible evidence was recovered	71%	66%	62%	54%	66%
Two or more witnesses were obtained	25%	37%	46%	43%	35%
Arrestee was convicted	31%	32%	31%	31%	31%
Number of MPD arrests for nonviolent property offenses	1,998	1,302	967	520	4,787

Source: Prosecutor's Management Information System (PROMIS).

[a]Includes larceny, burglary, unlawful entry, auto theft, property destruction, forgery, fraud, and embezzlement.

EXHIBIT 3.25

ARRESTS FOR NONVIOLENT PROPERTY OFFENSES,[a] REJECTED OR DISMISSED DUE TO WITNESS PROBLEMS, BY ELAPSED TIME
(MPD ARRESTS, 1974)

	Elapsed time from offense to arrest: 0 to 5 minutes	6 to 30 minutes	½ hour to 24 hours	more than 24 hours	All MPD arrests for nonviolent property offenses
Rejections and dismissals due to witness problems	228	145	115	64	552
Arrests	1,998	1,302	967	520	4,787
Rate of rejection due to witness problems	11%	11%	12%	12%	12%

Source: Prosecutor's Management Information System (PROMIS).

[a]Includes larceny, burglary, unlawful entry, auto theft, property destruction, forgery, fraud, and embezzlement.

EXHIBIT 3.26

CONVICTION RATES IN ARRESTS FOR VICTIMLESS AND MISCELLANEOUS[a] CRIMES, BY ELAPSED TIME
(MPD ARRESTS, 1974)

Crime group	Elapsed time from offense to arrest: 0 to 5 minutes	6 to 30 minutes	½ hour to 24 hours	more than 24 hours	Total
Victimless:					
Conviction rate	25%	23%	23%	28%	25%
Arrests	2,640	346	84	46	3,116
Miscellaneous:					
Conviction rate	41%	34%	21%	24%	37%
Arrests	1,127	210	179	152	1,668

Source: Prosecutor's Management Information System (PROMIS).

[a]Includes offenses for illegal possession of a weapon, bail violations and other forms of fugitivity, and various infrequently committed offenses.

Victimless and Miscellaneous Offenses

In the remaining offense groups, delay tends to be less of an issue than for the violent and property offenses. In the victimless group, as in the category of illegal possession of a weapon, the offense and arrest times usually coincide.

When there is some delay in these offenses, we do not find the conviction rate to be influenced one way or the other. These results are shown in Exhibit 3.26.

SUMMARY OF FINDINGS AND POLICY IMPLICATIONS

The findings of this chapter are likely to confirm what many informed observers of the criminal justice system already know. Certainly, they suggest some responses to the question: Regarding the characteristics of the arrest itself, why do so many arrests fail in court?

We find that the arrests that wash out of the court tend to be supported by less evidence at the time the case is brought to the prosecutor than those that end in conviction. When tangible evidence, such as stolen property and weapons, is recovered by the police, the number of convictions per 100 arrests is 60 percent higher in robberies (Exhibit 3.4), 25 percent higher in other violent crimes (Exhibit 3.6), and 36 percent higher in nonviolent property offenses (Exhibit 3.11). When the police bring to the prosecutor arrests with more witnesses, the probability of conviction is also substantially higher, both for the violent and property crimes (Exhibits 3.4, 3.7, and 3.12).

Recovery of tangible evidence was not reported in more than two-thirds of all arrests for violent offenses, half of all arrests for robbery, and one-third of all arrests for nonviolent property offenses (Exhibit 3.3). In most of the arrests for each of these three crime groups, fewer than two witnesses were reported by the police (Exhibit 3.3).

Related to the role of witnesses is our finding that a conviction was much more likely to occur in an arrest in which the victim and arrestee did not know one another prior to the occurrence of the offense. This holds for robberies, other violent crimes, and nonviolent property offenses (Exhibits 3.4, 3.8, and 3.13). A deeper insight into this result can be obtained by examining the rate at which the prosecutor rejected or dismissed cases due to witness problems; we find the rate of rejection due specifically to witness problems, such as failure to appear in court, to be substantially higher for offenses that were not recorded as stranger-to-stranger episodes (Exhibit 3.9).

We find that another feature of the arrest influences the likelihood that the arrestee will be convicted—the length of the delay between the time of the offense and the time of the arrest. We find this delay to be longest in robberies, with 55 percent of the arrests made more than 30 minutes after the offense. The conviction rate for robbery arrests—especially the stranger-to-stranger arrests—declines steadily as the delay grows longer. In stranger-to-stranger robbery episodes, 40 percent of all persons arrested within 30 minutes of the offense were convicted; for the suspects apprehended between 30 minutes and 24 hours after the occurrence of the offense, the conviction rate was 32 percent; for arrests that followed the occurrence of the crime by at least 24 hours, the conviction rate was only 23 percent (Exhibit 3.16). This pattern is also apparent in arrests for larceny and burglary (Exhibit 3.23), but not in arrests for other offense categories (Exhibits 3.20 and 3.23).

To the extent that arrest promptness does increase the conviction rate, it appears to do so largely out of the enhanced ability of the police to recover tangible evidence when the delay is short. In stranger-to-stranger robbery episodes, recovery of evidence is more than twice as likely when the arrest is made within 30 minutes of the occurrence of the offense than when it is made at least 24 hours later (Exhibit 3.17). This pattern is similar for violent offenses other than robbery (Exhibit 3.21), and somewhat less extreme in the case of nonviolent property offenses (Exhibit 3.24).

While prompt arrest may sometimes yield more witnesses, the data indicate that more witnesses are especially common in those arrests in which the delay between the offense and the arrest is longer than five minutes (Exhibits 3.17, 3.21, and 3.24). This is likely to reflect the fact that crimes are usually committed without many witnesses; prompt arrests are primarily a result of the proximity of the police, not the existence of several witnesses. When an offender does commit an offense in the presence of two or more witnesses, he is more likely to be apprehended, but rarely within five minutes. The additional support of witnesses in cases involving longer delay was reflected also by our finding that in arrests for violent offenses (including robbery) the prosecutor rejected or dismissed cases due to witness problems at a significantly lower rate when the delay was long (Exhibits 3.18 and 3.22).

To be sure, the ability of the police to recover tangible evidence, obtain witnesses, and arrest suspects promptly after the offenses occur is limited. Victims and other witnesses who notify the police of an

offense—and not all witnesses do—often learn of the offense after some delay (especially in burglary and homicide cases); witnesses do not always notify the police promptly after becoming aware of the crime; tangible evidence and witnesses may often be unobtainable.

At the same time, the police who respond to the calls of victims and other witnesses may not be fully aware of the crucial importance to the success of the arrest in court of recovering physical evidence about the crime and the person who committed it—evidence such as stolen property, weapons, articles of clothing, samples of hair, and items marked with fingerprints. Further potential for reducing the enormous number of arrests that fail to end in conviction is likely to lie in informing police officers of the importance of obtaining more than one good witness in serious crimes. It is appropriate that information about the importance of tangible evidence and witnesses be clearly communicated in officer training programs.

More fundamentally, the way to induce arresting officers to obtain better evidence is to expand their perspective of their own performance beyond the number of arrests they make. Arresting officers are likely to bring better evidence to court when their incentive to increase the number of *convictions* they produce exceeds their incentive to increase the number of arrests that they make. We look further into the incentives of the police in Chapter 5.

Notes

1. We restrict the large part of the analysis of this chapter to MPD arrests, so as to limit the extent to which our inferences are confounded by the effects of the particular police department. The inability to control adequately for factors other than the department, such as differences in the types of cases, victims, and suspects handled by each department, inhibited analysis of the specific effects of a particular police department on case outcomes in court.

2. The results we report here are based on the application of a method of contingency table analysis developed by Leo A. Goodman, as cited in Appendix B (available upon request from INSLAW). These general findings were produced earlier under the application of regression analysis to 1973 PROMIS felony data. See Brian Forst and Kathleen B. Brosi, "A Theoretical and Empirical Analysis of the Prosecutor," *Journal of Legal Studies*, vol. 6 (January 1977), pp. 177-92.

3. These numbers are clouded by large numbers of cases in which the relationship between the victim and arrestee was not recorded by the police or prosecutor, which we have included in "other." To the extent that the unknowns are distributed like the knowns, our having combined the unknowns with the others will cause the observed differences between the knowns and others to be smaller than the true differences. Hence, when we find a difference, it is likely to *underestimate* the true difference.

4. A more exhaustive INSLAW analysis of witness problems precedes the current research. Frank J. Cannavale, Jr., and William D. Falcon, ed., *Witness Cooperation With a Handbook of Witness Management* (Lexington, Mass.: D.C. Heath, 1976).

5. Other factors may further explain the difference. One is that the prosecutor may choose to give more attention to stranger-to-stranger robbery cases than to other robbery cases. Another is that tangible evidence is more often recovered in the stranger-to-stranger robbery arrests than in other robbery arrests.

6. The rates observed for homicide are likely to be artificially low. One official of the U.S. Attorney's Office has surmised that the PROMIS source documents are not filled out as carefully in homicide cases as in other cases because the case jacket is more heavily relied upon in homicides.

7. Since tangible evidence and witnesses were either virtually always or never a factor in these offenses, as shown in Exhibit 3.14, we do not display conviction rates by evidence or witnesses, as we have for the other offense groups.

8. National Commission on Productivity, *Opportunities for Improving Productivity in Police Services* (Washington, D.C.: Government Printing Office, 1973), p. 19.

9. Tony Pate, et al., *Police Response Time: Its Determinants and Effects* (Washington, D.C.: Police Foundation, 1976), p. 49.

10. That arrest clearances rarely result from the imaginative exercise of investigative resources has been concluded in a recent Rand Corporation study. Peter W. Greenwood, et al., *The Criminal Investigation Process, Volume III: Observations and Analysis* (Santa Monica, Calif.: Rand, 1975), p. ix.

11. Because the times of offense and arrest and the relationship between the victim and defendant were not always recorded in our data, 232 understates the true number of stranger-to-stranger robbery arrests made more than 24 hours after the offense occurred. Moreover, many stranger-to-stranger robbery arrests made within 24 hours of the offense may have been products of police investigation. Officers assigned to the Criminal Investigation Division arrested as many stranger-to-stranger robbery suspects in 1974 within 24 hours of the offense as they did after 24 hours had elapsed.

12. Note that in all categories of violent offenses shown in Exhibits 3.18 and 3.22, the highest rejection rate due to witness problems is for the group of arrests made from 6 to 30 minutes after the offense. The explanation for this is not obvious to us.

4. The Officer

We turn now to an analysis of the police officers. Our primary purpose here is to examine differences in performance among officers and analyze the extent to which these differences are influenced by officer characteristics. We go about this first by discussing the measurement of a police officer's performance. We then look at the extent to which officers differ with respect to these performance measures. Next, we examine each of the officer characteristics that are recorded in the data, so as to both describe the force and analyze the effect of each characteristic on officer productivity.

MEASURING AN OFFICER'S PRODUCTIVITY

We cannot learn all about a police officer's productivity from the data. The police perform many different functions, not only in the area of crime control, but in several other areas of public service as well. To produce a single measure of productivity that encompasses all these functions is beyond hope.

Even within the area of controlling crime, the measurement of an officer's performance is an awesome task. We really do not know how each of a particular officer's accomplishments contributes to the control of crime. Moreover, many of an officer's immediate accomplishments in this area are themselves not measurable. For example, suppose that an officer deals with a truant juvenile in a particularly creative and responsible way, so as to stimulate the eventual transformation of a borderline delinquent into a contributing member of society. The immediate police action in this instance—as well as the value that derives from it—will surely elude precise measurement.

At the same time, it is clear that important aspects of police performance in the area of crime control *are* measurable. In particular, we can observe the number and types of arrests that each officer makes, and we can trace the rate at which those arrests end in conviction.[1]

As we have emphasized throughout, however, arrests provide a limited measure of police performance, especially to the extent that they do *not* lead to conviction. Accordingly, we focus on measures of a police officer's productivity: the conviction rate and the number of convictions. The first—the rate at which an officer's arrests end in conviction—reflects the *quality* of the officer's arrests. We regard an officer's conviction rate to be an indicator of his or her awareness of the responsibility not to make an arrest that is most unlikely to lead to conviction.[2] It seems reasonable to expect that an officer who is prudent in his exercise of arrest discretion[3] and conscientious about recovering evidence, securing good witnesses, and, in general, supporting the pros-

ecution of his arrests will have a higher conviction rate for his arrests than an officer who is less prudent and conscientious.

The second measure—the number of convictions—reflects the *quantity* dimension. We regard this number as an indicator of an officer's awareness of his or her responsibility to make arrests that *do* end in conviction. Holding other factors constant, more convictions should lead to less crime, as we have noted.[4] We would expect this second measure to support the crime control objective of the police more directly than the first, but to do so at the possible expense of due process considerations, since the production of more convictions may also imply the making of more arrests that do not lead to conviction. Hence, the two measures—conviction rate and number of convictions—are basically complementary.[5]

PERFORMANCE DIFFERENCES AMONG OFFICERS

Before we analyze relationships between police officer characteristics and officer performance, we can examine some extremes in police officer performance.

Among the 4,505 sworn officers who served on the force of the Metropolitan Police Department during 1974, 2,418 (54 percent of the force) made at least one arrest in that year. While many of the others may have been in positions to make arrests, we can assume that most were not. We obtain a sense of the value of taking the court perspective by noting that as many as 747 of the 2,418 officers—31 percent of all MPD officers who made arrests—made *no* arrests in 1974 that led to conviction.[6]

Especially striking is the fact that over half of the 4,347 MPD arrests made in 1974 that ended in conviction were made by as few as 368 officers—15 percent of all the officers who made arrests, and 8 percent of the entire force. Eighty-four percent of all the convictions were produced by less than 1,000 officers (41 percent of all arresting officers and 22 percent of the force). And this phenomenon was not the result of a few officers making large numbers of arrests leading to convictions for victimless offenses. Over half of the 2,047 MPD arrests for *felony* offenses that led to conviction were made by a handful of 249 officers.

Nor do these prolific officers appear to have produced a large quantity of arrests at the expense of quality. The conviction rate for all the arrests made by the 368 officers who produced over half of all the MPD convictions was 36 percent—substantially higher than the conviction rate for the arrests made by all the other MPD officers who made arrests in 1974 (24 percent).[7] This compatibility of quantity with quality of performance is further indicated in Exhibit 4.1. It is evident that the officers who produced the most convictions did not do so merely by making numerous arrests.

OFFICER CHARACTERISTICS AND PERFORMANCE

The officers of the Metropolitan Police Department appear in most ways to be like the officers of other police departments—predominantly male, white, and married. They are somewhat unlike officers of other police departments, however, as a result of an 84 percent increase in the size of the force from 1967 to 1972. They are fairly young (the median age

EXHIBIT 4.1

CONVICTION RATES FOR MPD ARRESTING OFFICERS, BY NUMBER OF CONVICTIONS RESULTING FROM ARRESTS MADE IN 1974

Number of convictions	Number of officers	Total number of convictions[a]	Total number of arrests	Conviction rate
0	747	0	1,806	0%
1	679	679	2,588	26%
2	386	772	2,395	32%
3	231	693	2,022	34%
4	132	528	1,431	37%
5	98	490	1,352	36%
6 or more[b]	145	1,185	3,271	36%
Total	2,418	4,347	14,865	29%

Source: Prosecutor's Management Information System (PROMIS) and Metropolitan Police Department Personnel File.

[a]Product of column 1 times column 2.

[b]The mean number of convictions for these officers was 8.17.

is 27 years), and they appear to have less police experience than officers in many other jurisdictions—most of the MPD officers have served on the force for less than five years. Also noteworthy are substantial increases in the proportions of blacks and women on the MPD force in recent years. In 1969, the force was 31 percent black and in 1972 the force was 3 percent female; by 1976, the percentages had increased to 43 and 7, respectively.[8]

Experience

Among the officer characteristics in our data—length of service, sex, age, residence, and marital status—the characteristic we would expect to find most systematically related to productivity is length of service. In particular, it seems reasonable to expect that inexperienced officers would be less aware than their more senior colleagues of the procedures that are effective in causing arrests to end in conviction.

This expectation is confirmed with the results reported in Exhibit 4.2 and Appendix C.[9] Among the 2,418 officers who made arrests in 1974, those with more experience performed at significantly higher levels—in terms of both the quality and quantity dimensions set forth above—than their less experienced associates. Performance appears to improve especially sharply during the earliest years of service. Note also that the officers with the most experience are less likely to make arrests in the first place than officers with less prior service.

To some extent, our finding an association between officer experience and performance may be due to a confounding effect of assignment. That is, to the degree that more experienced officers are assigned in such a way that their arrests are inherently more or less convictable, independent of the officer's performance, any inference we may draw about the effect of experience on productivity will be erroneous.[10] On the face of it, however, this bias does not appear to be large here.[11]

EXHIBIT 4.2

EXPERIENCE AND PRODUCTIVITY OF MPD OFFICERS
(1974)

	Experience in years			
	less than one	one to five	six or more	Total
1. All sworn officers	236	2,794	1,475	4,505
2. Arresting officers	159	1,901	358	2,418
3. Row 2 as a % of Row 1	67%	68%	24%	54%
4. Officers with conviction rates of at least 30%	65	845	169	1,079
5. Row 4 as a % of row 2	41%	45%	47%	45%
6. Officers with at least two convictions	43	801	148	992
7. Row 6 as a % of row 2	27%	42%	41%	41%

Source: Prosecutor's Management Information System (PROMIS) and Metropolitan Police Department Personnel File.

Age

The problem of confounding effects does not end with those among experience, assignment, and productivity. Another set of such effects involves age, experience, and productivity. The task of analytically disentangling the relationships among this latter set of factors is somewhat less formidable than before, however, since age and experience are both measurable dimensions, unlike assignment.

We find no significant effect of age on productivity, independent of the effect of experience on productivity. This can be observed in Exhibit 4.3 and Appendix C. Within each major experience group, the younger officers do not appear to differ substantially from the older ones in terms of either their conviction rates or the number of arrests they make that lead to conviction.[12]

Sex

The role of women has expanded in law enforcement in much the same way as it has in other occupations. With respect to the Metropolitan Police Department, this is surely reflected in the expression of praise by a national commission for the MPD's "most innovative promotional policy."[13] It is further reflected in the fact that 946 arrests were made by women in 1974, as compared with only 244, about one-fourth as many, the previous year.[14] This increase is probably due largely to the fact that many of the women on the force in 1973 were rookie officers recently hired under a program to increase the number of females. A year later, many of these women were in positions in which they could make arrests, and make them they did.

EXHIBIT 4.3

AGE AND PRODUCTIVITY OF MPD OFFICERS, BY EXPERIENCE (1974)

	Experience in years			
	less than one	one to five	six or more	Total
Under 30 years old:				
1. Arresting officers	143	1,540	59	1,742
2. Officers with conviction rates of at least 30%	59	691	25	775
3. Row 2 as a % of row 1	41%	45%	42%	45%
4. Officers with at least two convictions	36	658	27	721
5. Row 4 as a % of row 1	25%	43%	46%	41%
30 years or older:				
6. Arresting officers	16	361	299	676
7. Officers with conviction rates of at least 30%	6	154	144	304
8. Row 7 as a % of row 6	38%	43%	48%	45%
9. Officers with at least two convictions	7	143	121	271
10. Row 9 as a % of row 6	44%	40%	41%	40%

Source: Prosecutor's Management Information System (PROMIS) and Metropolitan Police Department Personnel File.

One can obtain a further sense of the role of MPD policewomen in the area of crime control by observing the kinds of arrests they make. Since less experienced officers are assigned somewhat differently from other officers, it is appropriate to compare the arrest distributions of male and female officers of similar experience. Such a comparison is shown in Exhibit 4.4. A striking result is that over half of all the arrests made by women are for prostitution-related offenses, both for policewomen with less than two years of service and for those with at least two years of service. At the same time, however, we find policewomen making many arrests for more serious offenses—including crimes of violence and property. The more experienced policewomen are especially active in arrests for sexual assault, which are included in the group of violent offenses other than robbery.[15]

The MPD surely responds to a facet of public pressure in making arrests for illegal solicitation in sex. And, given an objective of controlling prostitution, fairness is certainly reflected in the fact that after years of

EXHIBIT 4.4

ARRESTS FOR OFFICERS WITH SIMILAR EXPERIENCE LEVELS, BY SEX OF ARRESTING OFFICER AND CRIME GROUP
(MPD ARRESTS, 1974)

Officer category	Crime group					Total
	robbery	other violent	nonviolent property	victimless	all other[a]	
Short experience:						
Men with less than 24 months of MPD service	175 (10%)	350 (20%)	654 (38%)	334 (19%)	219 (13%)	1,732 (100%)
Women with less than 24 months of MPD service	17 (3%)	66 (16%)	103 (17%)	354 (60%)	53 (20%)	593 (100%)
Medium experience:						
Men with 24 to 35 months of MPD service	207 (9%)	410 (18%)	747 (34%)	553 (25%)	315 (14%)	2,232 (100%)
Women with at least 24 months of MPD service[b]	13 (4%)	93 (26%)	47 (13%)	184 (52%)	16 (5%)	353 (100%)

Source: Prosecutor's Management Information System (PROMIS) and Metropolitan Police Department Personnel File.

[a]Includes mostly illegal possession of weapons and fugitivity offenses.

[b]Median is 33 months.

arresting only females for prostitution, the MPD has begun to arrest at least as many males as females.[16]

What is, perhaps, most significant is the fact that the number of arrests made by female officers for offenses *other* than "soliciting for prostitution or lewd and immoral purposes" doubled from 1973 to 1974. This alone would support the claim that the MPD is following the spirit of the recommendation of the National Advisory Commission on Criminal Justice Standards and Goals to provide career paths for policewomen that converge with those for their male counterparts.[17]

How do the policewomen compare with policemen in terms of their conviction rates in each of the major crime groups? Results are shown in Exhibit 4.5. These findings, together with those of Appendix C, indicate that the conviction rates for arrests made by policewomen are not significantly different from those for policemen, a result that is not evident when offense seriousness is ignored. That the *aggregate* conviction rate for women is lower than for men reflects the fact that most of the arrests made by women were for illegal solicitation in sex, a category for which the conviction rate (23 percent) is significantly lower than for all other offenses (30 percent). These results appear generally to be consistent with those of an earlier study of patrolwomen in the District of Columbia, conducted by the Urban Institute.[18]

Residence

Should a police officer be required to live in the community where he

EXHIBIT 4.5

CONVICTION RATES FOR OFFICERS WITH SIMILAR EXPERIENCE LEVELS, BY SEX OF ARRESTING OFFICER AND CRIME GROUP
(MPD ARRESTS, 1974)

Officer category	Crime group: robbery	other violent	nonviolent property	victimless	all other[a]	Total
Short experience:						
Men with less than 24 months of MPD service	36%	26%	32%	23%	36%	30%
Women with less than 24 months of MPD service	18%	26%	28%	16%	36%	21%
Medium experience:						
Men with 24 to 35 months of MPD service	34%	25%	30%	26%	37%	30%
Women with at least 24 months of MPD service[b]	46%	20%	40%	17%	38%	23%

Source: Prosecutor's Management Information System (PROMIS) and Metropolitan Police Department Personnel File.

[a]Includes mostly illegal possession of weapons and fugitivity offenses.

[b]Median is 33 months.

or she works? This question is frequently raised, but discussion about the issue tends rarely to address the problem on the basis of empirical evidence about the effect of residence on police performance.[19] More often, the debate centers on municipal budgets and racial issues.[20] While these latter considerations may by themselves warrant the creation of residency requirements, it may be useful to consider also the matter of productivity.

An analysis of the data for the District of Columbia does not lend support to the theory that officers who live in the community where they serve perform at a higher level of productivity than those whose ties to the community are not residential. (See Exhibit 4.6 and Appendix C.) The strongest systematic relationship that does emerge is that between residence and the number of convictions—within each experience group, the proportion of arresting officers with at least two convictions is higher for nonresidents of the District than for residents.[21] This, of course, does not argue for a policy of affirmative action toward nonresidents in the recruitment of police officers. It does suggest, however, that a policy of requiring officers to reside in the jurisdictions in which they serve will not necessarily lead to a more productive police force.[22]

Marital Status

President Carter, in urging unmarried civil servants who live "in sin" to get married,[23] would appear to have had motives for this recommendation other than improving productivity. The results of Exhibit 4.7 and

EXHIBIT 4.6

RESIDENCE AND PRODUCTIVITY OF MPD OFFICERS, BY EXPERIENCE (1974)

	Experience in years			
	less than one	one to five	six or more	Total
D.C. residents:				
1. Arresting officers	41	441	65	547
2. Officers with conviction rates of at least 30%	19	201	24	244
3. Row 2 as a % of row 1	46%	46%	37%	45%
4. Officers with at least two convictions	9	175	25	209
5. Row 4 as a % of row 1	22%	40%	39%	38%
Non-D.C. residents:				
6. Arresting officers	118	1,460	293	1,871
7. Officers with conviction rates of at least 30%	46	644	145	835
8. Row 7 as a % of row 6	39%	44%	50%	45%
9. Officers with at least two convictions	34	626	123	783
10. Row 9 as a % of row 6	29%	43%	42%	42%

Source: Prosecutor's Management Information System (PROMIS) and Metropolitan Police Department Personnel File.

Appendix C suggest that married officers do not perform at higher levels of productivity than unmarried ones. To the extent that a difference does emerge, it would appear to be in the opposite direction.[24] Therefore, as with residency requirements, we would urge policy setters to move with caution in tying personnel policies to marital status.

SUMMARY OF FINDINGS AND POLICY IMPLICATIONS

We find substantial differences among the officers of the Metropolitan Police Department in their ability to produce arrests that lead to conviction. This is reflected in the fact that among the 2,418 officers who made arrests in 1974, as few as 368 officers produced over half of all arrests that led to conviction.[25] The conviction rate for all the arrests made by these 368 officers, 36 percent, greatly surpassed that for the arrests made by the 2,050 other officers who made arrests (24 percent).

What is less evident are the reasons why some officers appear to be so much more productive than others. While some of the officers who tend

EXHIBIT 4.7

MARITAL STATUS AND PRODUCTIVITY OF MPD OFFICERS, BY EXPERIENCE (1974)

	Experience in years			
	less than one	one to five	six or more	Total
Married:				
1. Arresting officers	63	1,188	299	1,550
2. Officers with conviction rates of at least 30%	29	496	141	666
3. Row 2 as a % of row 1	46%	42%	47%	43%
4. Officers with at least two convictions	18	493	128	639
5. Row 4 as a % of row 1	29%	42%	43%	41%
Unmarried:				
6. Arresting officers	96	713	59	868
7. Officers with conviction rates of at least 30%	36	349	28	413
8. Row 7 as a % of row 6	38%	49%	48%	48%
9. Officers with at least two convictions	25	308	20	353
10. Row 9 as a % of row 6	26%	43%	34%	41%

Source: Prosecutor's Management Information System (PROMIS) and Metropolitan Police Department Personnel File.

to produce a larger number of arrests that lead to conviction may do so as a result of their assignment, the highly productive officers can be found in every major Washington assignment.[26] Moreover, even if some assignments may present greater opportunities for the officer to make arrests, this does not ensure that the officer will necessarily produce more arrests that lead to conviction. Indeed, the conviction rate for the arrests made by the officers who made only one arrest in 1974 was higher than for the arrests made by the 111 officers who made at least 20 arrests each.[27]

Nor is officer productivity closely tied to the officer's personal characteristics that are recorded in the data. While more experienced officers tend to produce more convictions and have higher conviction rates than officers with less time on the force (see Exhibit 4.2 and Appendix C), the other characteristics in the data—age, sex, residence, and marital status—are, at best, only mild predictors of an officer's ability to produce arrests that become convictions.

To the extent that we do find statistical relationships between an officer's personal characteristics and his or her performance, they appear to run counter to some conventional beliefs. For example, officers who reside in the community where they serve, in this case the District of Columbia, do not appear to perform at higher levels of productivity than officers whose ties to the community are nonresidential. Indeed, nonresidents tend to produce more arrests that end in conviction than do other officers, and, as shown in Exhibit 4.6 and Appendix C, they do not do so at the expense of their conviction rates. Nor does the performance of married officers appear to surpass that of single officers (see Exhibit 4.7 and Appendix C).

We find also that while policewomen are not involved as extensively in making arrests for crimes of violence and property as are policemen of similar experience levels, they do make such arrests (Exhibit 4.4), and they appear to do so with about equal competence as their male counterparts (Exhibit 4.5 and Appendix C).

What are the implications of these findings? To begin with, police departments would surely do well to identify their "supercops"—such as the 368 officers noted above—and examine carefully the procedures these officers use in making arrests and preparing them for the prosecutor. This information should be extremely valuable for use in both preservice and in-service training programs.

The police could also identify those officers who have established a pattern of making arrests that do *not* end in conviction. The arrests made by each of these officers could then be examined for specific problem areas. Are this officer's arrests often dropped by the prosecutor due to failure of witnesses to appear in court or to cooperate with the prosecutor? In those situations in which tangible evidence tends to be more common, such as an arrest made quickly after a property offense, does this officer seldom recover tangible evidence? When problems are identified in these areas, the appropriate information can be communicated to the officer for corrective action.

Police departments might also wish to acknowledge the officers who produce more convictable arrests and thereby encourage all officers to look beyond arrest, just as the few highly productive officers we find in Washington evidently do. Such acknowledgment could take the form of more rapid promotion or special recognition. If more rapid promotion is adopted, consideration might be given to providing the opportunity for promoted officers to remain in positions where they can continue to produce arrests that lead to convictions, as long as they have a taste for making arrests rather than serving in a more supervisory role. It is not uncommon for promotion to lead automatically to *reduced* opportunities for the promoted person to serve in his or her most productive capacity.[28]

Another implication is related to the proposed policy of requiring police officers to live where they serve. While such a policy might be advantageous in terms of budgetary and equity considerations, it is apparent that such a policy is not likely to cause the productivity of the force to increase.

It appears to us most important that individual officers be offered in-

centives not just to make arrests, but to make arrests that become convictions. It is quite clear that some officers have mastered this art and others have not.

Notes

1. The deterrent value of convictions has been supported scientifically. See, for example, Gary S. Becker, "Crime and Punishment: An Economic Approach," *Journal of Political Economy*, vol. 76 (March/April 1968), pp. 169-217; Isaac Ehrlich, "Participation in Illegitimate Activities: A Theoretical and Empirical Investigation," *Journal of Political Economy*, vol. 81 (May/June 1973), pp. 521-37; Peter Passell, "The Deterrent Effect of the Death Penalty: A Statistical Test," *Stanford Law Review*, vol. 28 (November 1975), pp. 61-80; and Brian Forst, "The Deterrent Effect of Capital Punishment: A Cross-State Analysis of the 1960's," *Minnesota Law Review*, vol. 61 (May 1977).

2. Of course, situations may often exist in which an arrest serves a useful purpose even when it is apparent that a conviction is unlikely. Hence, a policy of discouraging an officer from making an arrest under circumstances in which an arrest could legally be made deserves to be carefully qualified. Moreover, current legal and extralegal barriers stand in the way of such a policy. These considerations are further discussed in Chapter 5.

3. For an excellent treatment of this issue, see Albert J. Reiss, Jr., *The Police and the Public* (New Haven: Yale University Press, 1971). Also, President's Commission on Law Enforcement and the Administration of Justice, *The Challenge of Crime in a Free Society* (Washington, D.C.: Government Printing Office, 1967); and Joseph Goldstein, "Police Decisions in the Administration of Justice," *Yale Law Journal*, vol. 69 (1960).

4. See note 1, above.

5. They are also tautologically related—an officer's conviction rate is defined in terms of his number of convictions, and the number of convictions he produces is a function of the way he makes each arrest, as reflected by his conviction rate. An alternative would have been to use the number of arrests to reflect the quantity dimension, but we regard arrests as an extremely limited measure of police performance, especially to the extent that the use of arrests as a quantity measure involves greater potential for the violation of due process considerations than does the use of convictions. See also note 1, above.

6. Fifty-nine percent of these 747 officers made at least two arrests, and one of these officers made 16 arrests in 1974, none ending in conviction.

7. This is not to imply that officers who make large numbers of *arrests* generally have higher than average conviction rates. Indeed, we find a conviction rate of 33 percent in the arrests made by the officers who made only one arrest and a rate of only 27 percent for the 3,081 arrests made by the 111 MPD officers who made at least 20 arrests each.

8. Source: Metropolitan Police Department, Personnel Division. Force strength by race is recorded as early as 1969, and by sex as early as

1972. Unless otherwise indicated, all other statistics reported here are from the research file described in Chapter 1. This research data base does not include information about the race of individual officers, which was not available to us for study.

9. Appendix C reports results of the application of multiple regression analysis to the officer data analyzed in this chapter. Regression analysis permits inferences about the influence of one factor on another while accounting for the effects of other factors, the omission of which might otherwise distort the findings. The results reported in this chapter are consistent with, less detailed than, and to a large extent motivated by, those reported in Appendix C, available upon request from INSLAW.

10. Confounding effects can be separated analytically in many research problems. One way is through the use of controlled experimentation. Another is through the use of simultaneous equations estimation techniques, which are applicable when each of the relevant equations can be properly identified with appropriate control variables. Neither method appeared feasible in this instance.

11. The level of experience of officers who make arrests in highly convictable offenses tends not to be appreciably different from that for officers who make other arrests. For the aggregate of the three offense categories reported in Chapter 3 with conviction rates above 40 percent—weapons offenses (49 percent), homicide (44 percent), and burglary (41 percent)—the median length of service of the arresting officer was 49.6 months. For the offenses with conviction rates below 20 percent—fugitivity (18 percent) and breaking and entering (15 percent)—the median was 45.1 months. For all other offenses, the median length of service of the arresting officer was 47.1 months.

12. A noteworthy, although not statistically significant, difference is revealed within the most experienced group of officers: an experienced officer under 30 years of age tends to produce more convictions than an older officer, but tends not to make arrests that are as likely to end in conviction. Also noteworthy is the fact that the age distribution of officers resembles that of the persons arrested. The bulk of both populations are in their twenties, and less than 5 percent of each population is above 50 years of age. Other similarities (e.g., sex, exposure to danger, degree of occupational versatility, the role of partnerships, and so on) may suggest a worthy theme for a sociological comparison of the two groups.

13. National Advisory Commission on Criminal Justice Standards and Goals, *Police* (Washington, D.C.: Government Printing Office, 1973), p. 345.

14. However, see note 16, below, and accompanying text.

15. This appears to be due primarily to the fact that the MPD has assigned women to the Sex Squad, which investigates sexual assaults, disproportionately to their numbers on the force.

16. Some may argue that the MPD has gone too far in the other direction. In 1974, 680 males and 239 females were arrested for prostitution-related sex offenses, as compared with 193 males and 643 females in 1973.

17. National Advisory Commission, *Police*, pp. 342-45.

18. This study compared the number of arrests made by new patrolwomen with those of a matched cohort of new patrolmen. Peter B. Block, et al., *Policewomen on Patrol*, vols. I-III (Washington, D.C.: Urban Institute, 1973).

19. For example, District of Columbia Councilmember Marion Barry wrote in a letter to the *Washington Post*, June 19, 1975: "Only 22 percent of the force live in D.C. . . . These residency figures compare most unfavorably with the 60 percent D.C. residency figure for the total District government workforce." Barry had previously referred to the MPD as an "occupational army" of suburbanites. Former MPD Chief of Police Jerry Wilson, on the other hand, writes:

> Except for the minimal value of increased police presence, there is no more justification for requiring a police officer to live within his jurisdiction than there is to require any other city employee to do so, and there certainly is less justification in the case of a police patrol officer than in the case of a middle-management administrator who has considerable influence on city policies.

Wilson, *Police Report* (Boston: Little, Brown, 1975), p. 195. See also National Advisory Commission, *Police*, p. 323.

20. The late Mayor Richard Daley expressed his viewpoint succinctly: "If a city is good enough to work for, it should be good enough to live in." (Quote from Neal R. Peirce, " 'Work Here, Live Here' Rules: An Overdue Reform," *Washington Post*, August 30, 1976, p. A19.)

21. It is possible that our findings regarding residence are distorted by the omission of a race variable, which was not available for this study. The likelihood of some statistical distortion is suggested by the 1970 Census Bureau data, which indicate that more than 70 percent of all D.C. residents are black, while less than 10 percent of the remainder of the Standard Metropolitan Statistical Area of which the District is a part is black. We know of no evidence that indicates that police officer residence and race patterns are very different from that of the general population of the area.

22. The officers of the MPD are currently required by law to live "within a radius of 25 miles from the United States Capitol Building." *District of Columbia Code* (Washington, D.C.: Government Printing Office), Title 4, Section 132(a).

23. White House press release, "Remarks of the President and Informal Question and Answer Session at the Department of Housing and Urban Development," February 10, 1977, p. 9.

24. The percentage of unmarried officers with conviction rates over 30 percent is significantly higher (at the .01 level) than that for married officers, in spite of the fact that unmarried officers tend to have less police experience. When more variables are controlled for, however, as shown in Appendix C, the effect is not statistically significant.

25. That this is not strictly a local phenomenon is suggested by similar findings in Indianapolis, Indiana: "this analysis has shown that detectives vary in their ability to produce cases leading to a conviction." Gary La Free, Peter Giordano, and James F. Kelley, "Total Case Loads, Convictions and Conviction Rates Among Indianapolis Detectives in 1976: A Preliminary Report," revised memorandum, June 10, 1977.

26. Each of the seven police districts into which Washington is divided had at least 23 arresting officers who made four or more arrests that led to conviction. In addition, 41 such officers were assigned to the Criminal Investigation Division, 19 to the Morals Division, 25 to the Special Operations Division, and 15 to other organizations within the MPD.

27. See note 7, above.

28. Laurence J. Peter and Raymond Hull, *Peter Principle: Why Things Always Go Wrong* (New York: Morrow, 1969).

5. The Prosecutor and Court

To understand what happens after arrest, one surely cannot ignore the prosecutor and the court. For while it may be true that many arrests fail because of factors associated with the arrest itself or the officer who makes it, it is the prosecutor and judiciary who actually make and execute the decisions that cause most arrestees not to be convicted. We saw in Chapter 2 that of 17,534 arrests brought to the court in 1974, the prosecutor rejected 21 percent at initial screening and dismissed more than 29 percent that had been initially accepted; judges dismissed yet another 8 percent; and 6 percent of the arrestees were not convicted because the terms of pretrial release set by the court led to the defendant's becoming a fugitive.

In this chapter we explore, first, the conjunction of the police with the prosecutor and court by comparing the legal standards for arrest and conviction. We then discuss the objectives of the police, prosecutor, and judiciary, and examine measures used by each of these agencies to assess their own performance. Finally, we examine the reasons given by the prosecutor for rejecting arrests at the initial screening stage and for dismissing cases that had been initially accepted; rejections and dismissals are discussed further in terms of the potential for the prosecutor to use these two methods of dropping cases selectively as a means of reducing confrontation with the police.

LEGAL AND QUASI-LEGAL STANDARDS FOR ARREST AND CONVICTION

That some arrests do not end in conviction is a natural consequence of criminal law and procedure. The law sets forth a less stringent standard for the police in making the arrest than it does for the court in determining the guilt of the accused in trial. If a case meets the arrest standard but not the standard for conviction, and if the defendant does not plead guilty, he will be freed. Let us examine these standards.

Probable Cause

Under the *Federal Rules of Criminal Procedure*, the police can apply for an arrest warrant whenever "there is probable cause to believe that an offense has been committed and that the defendant has committed it."[1] Probable cause has been further described as existing whenever "the facts and circumstances within [the arresting officers'] knowledge and of which they had reasonably trustworthy information are sufficient in themselves to warrant a man of reasonable caution in the belief that" an offense was committed.[2] A later description focused on the probabilistic aspect: "In dealing with probable cause . . . we deal with

probabilities. These are not technical; they are the factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act."[3]

In the District of Columbia, the laws pertaining to arrest stipulate that in order to make an arrest an officer must have a warrant, which is granted on the basis of sworn facts "establishing probable cause to believe that the person committed the offense."[4] If the officer has no warrant, which is typically the case, he or she must generally have probable cause to believe the person has committed or is committing a felony.[5]

Beyond a Reasonable Doubt

To convict the arrestee, the prosecutor must generally be able to present evidence that exceeds the probable cause standard. If the case should go to trial, the guilt of the defendant must be proven beyond a reasonable doubt before the judge or jury can rule that the defendant be convicted. A precise definition of the phrase "beyond a reasonable doubt" is about as elusive as is one for "probable cause." Here is a definition used in the District of Columbia:

> Reasonable doubt, as the name implies, is a doubt based on reason, a doubt for which you can give a reason. It is such a doubt as would cause a juror, after careful and candid and impartial consideration of all the evidence, to be so undecided that he cannot say that he has an abiding conviction of the defendant's guilt. It is such a doubt as would cause a reasonable person to hesitate or pause in the graver or more important transactions of life. However, it is not a fanciful doubt nor a whimsical doubt, nor a doubt based on conjecture. It is a doubt which is based on reason. The government is not required to establish guilt beyond all doubt, or to a mathematical certainty or a scientific certainty. Its burden is to establish guilt beyond a reasonable doubt.[6]

A leading textbook on criminal law elaborates on this by indicating that the reasonable doubt standard applies specifically to the *persuasiveness* of the facts relating to the defendant's guilt of the crime charges. That is, the prosecutor's burden of proof requires not only that he or she produce evidence of all the elements of the crime charged; he must also persuade the judge or jury beyond a reasonable doubt that the crime was committed and that the defendant is legally accountable for its commission.[7]

While the language remains somewhat imprecise,[8] it is clear that the prosecutor confronts a more stringent evidentiary standard in convicting the defendant than do the police in arresting him.[9] The Supreme Court has indicated that this difference is substantial: "There is a large difference between the two things to be proved [guilt and probable cause], as well as between the tribunals which determine them, and therefore a like difference in the quanta and modes of proof required to establish them."[10]

Nonevidentiary Considerations

The conviction of some arrestees is not pursued even though the evidence of their guilt appears convincing beyond the reasonable doubt standard. A prosecutor might not carry forward a case, even when the

evidence meets that standard, for any of several reasons, which we take up in a moment. Unlike the police officer, who is legally required to arrest a person he observes violating the law,[11] the prosecutor has considerable discretion not to prosecute—a fact that has been well established.[12]

How can failure to seek conviction be justified when the evidence is strong? One need only look at the enormous volume of arrests and the limited resources of the prosecutor and court for an answer. Given this circumstance, every potentially convictable case simply cannot be prosecuted, even when the evidence may be strong.

A more difficult question is this: Among the potentially convictable arrests, *which ones* shall the prosecutor reject or dismiss? LaFave has suggested that the prosecutor is more likely to reject an arrest as a result of the exercise of discretion—in particular, as it applies to the rejection of arrests involving minor offenders—than as a result of a meticulous testing of the evidence.[13] Kadish and Paulsen have suggested that the prosecutor might reject or dismiss a potentially convictable case "if he believes: (1) the accused has suffered enough; (2) the offense was a 'technical violation' resulting from a criminal statute drawn too broadly; [or] (3) the offense has become obsolete because times have changed."[14] And according to Remington:

> The discharge of a defendant, by the prosecutor's decision not to charge the suspect . . . despite the existence of evidence sufficient to convict him . . . [is] grounded upon a variety of considerations of fairness, public justice, and administrative expediency; [it has] the effect of an acquittal; and [it] terminate[s] prosecution against a defendant who, according to the formal criteria of the criminal law, might properly be convicted.[15]

The courts have given a related justification for failure to pursue the conviction of an apparent offender: lack of culpability. It might be inappropriate to pursue conviction when it is not the case that "under all the circumstances of the event and in light of all known about the defendant, the prohibited act, if committed, deserves condemnation by the law."[16] Newman has explored such decisions not to pursue conviction of an apparent offender in great detail. He states that "observation of current practice indicates that acquittals based on nonevidentiary criteria are common and have important consequences for the administration of justice."[17]

Yet another criterion for the exercise of the prosecutor's discretion has been offered: the potential for crime control. Under this criterion, the prosecutor might reject or dismiss a convictable arrest in favor of another somewhat less highly convictable one when the latter case involves an arrestee who has revealed a high propensity for the repeated commission of serious criminal acts. Thus the prosecutor might produce fewer convictions in the current period in order to bring about a reduction in future crime.[18]

In summary, large numbers of arrests dropping out of the criminal justice system might reflect higher evidentiary standards for conviction than for arrest; or they might reflect the exercise of the prosecutor's discretion not to pursue the conviction of an offender about whom there

is strong evidence, discretion not available to police under the law. It is more likely that they reflect both of these factors, together with the experience of the arresting officer and the thoroughness of the arrest procedure, as discussed in Chapters 3 and 4.

AGENCY OBJECTIVES AND THE MEASUREMENT OF PERFORMANCE: THE POLICE, PROSECUTOR, AND JUDICIARY

In order to obtain a deeper insight into the process by which arrests move from police officers to prosecutors and, sometimes, to judges, it is valuable to know the objectives of each of these three. We confess, at the outset, the near hopelessness of this task, since virtually every organization has its stated objectives, its hidden (often unintentionally) objectives, measurable and immeasurable objectives, general and specific objectives, and so on, all of which are seldom mutually compatible. Since the police, prosecutor, and court often attempt to measure their performance in reaching toward their objectives, we will look also at the performance measures that these agencies use.

The Police

The police are responsible for many functions that extend well beyond criminal justice. Among these are the maintenance of public order in areas such as traffic and crowd management, the protection of safety and health, and the provision of public information.

Within the criminal justice system, the primary purpose of the police appears to be that of controlling crime. The courts have reviewed the police role extensively and have attempted to achieve a proper balance between this police objective and the objective of protecting the liberty of the individual, as provided under the Fourth, Fifth, and Sixth Amendments.[19] As a result, the police objective of crime control is constrained by legal boundaries on arrest, search, seizure, surveillance, and other procedures used in the pursuit of that objective. The police control of crime is also constrained by the limitation of resources.

It is the manner in which the police interpret this crime control objective that is especially unclear. What is meant by crime control? Can it be measured? If so, how? Should different weights be assigned to the commission of different crimes according to their severity? If so, what weights should be used? Is it even appropriate in the first place to assess police performance by counting crimes, in view of the limited extent to which the police may be able to influence crime rates?

Answers to these questions are extremely elusive. As a result, the police have measured their performance primarily using a much simpler metric—arrests. At the police department, division, and precinct levels, the number of reported offenses cleared by arrest is often used internally to measure the ability of the *organization* to meet its objectives. And the performance of *individual* officers is often assessed, at least in part, on the basis of the number of arrests made by the officer over a given period of time.

These arrest statistics have two principal virtues: (1) they are relatively easy to count and (2) they cannot be influenced by other agencies.

The actual number of crimes, on the other hand, is a good deal more difficult to count and is to a large degree beyond police control.

Against these advantages must be weighed the chief shortcoming of arrest statistics: they may have little to do with crime control. We have seen that the vast majority of arrests made in the District of Columbia end neither in conviction nor in incarceration. While some degree of crime control is likely to be produced by the temporary detainment associated with offenders who are arrested but not convicted, this effect may be offset by a tendency for this brief, but enlightening, experience to encourage the offenders to commit more crimes.

The use of arrest statistics by the police to measure their own performance may even have a *negative* influence on the rate at which serious offenses occur in society. Concern over simple arrest statistics can cause police resources to be diverted from potentially important postarrest investigation to the making of more arrests. It can also cause resources to be diverted from the control of the relatively serious crimes, for which arrests tend to be considerably more difficult to make, toward the control of illegal activities about which the public cares much less—consensual sex offenses, possession of marijuana, gambling, and so on.[20]

The Prosecutor

Since prosecutors are far less visible to the public than are the police, the objectives of the prosecutor and the measurement of prosecution performance have been less of a public issue. For the most part, information about the police has been vastly more accessible than has information about the prosecutor.

Most of what has been written about the prosecutor appears to have focused less on the objectives of the prosecutor than on his enormous discretionary power.[21] An important exception can be found in the work of Landes, who postulated that the prosecutor allocates his limited resources toward the objective of maximizing the aggregate of convictions weighted by their respective sentences.[22]

That the principal objective of the prosecutor is to convict offenders is well beyond dispute. It is supported not only by Landes' research, but by empirical evidence about prosecutorial operations in the District of Columbia.[23]

It is as natural for the prosecutor to assess his own performance by counting convictions as it is for the police to assess their performance by counting arrests. Both factors are readily measurable; both are about as much outside the influence of other criminal justice agencies as they can be. And the prosecutor can use statistics about convictions to evaluate the performance of the office, the individual, or both, in much the same way that the police can use arrest statistics

This is not to suggest that it is common, in fact, for prosecutors to measure their performance using statistics. Indeed, the relevant data are seldom readily available, and the prosecutor is rarely called upon to report on office performance in the first place because of his low visibility.

In each of the instances in which we do find prosecutorial performance measures, the number reported is a conviction rate, formed as

the ratio of convictions to indictments[24] or to cases accepted for prosecution.[25]

The Judiciary

The judge presides over the adversarial process, with the objectives of ensuring that justice is done and that it is done promptly. Justice is surely as difficult a concept to measure as any, but promptness is not. As a result, it is not uncommon to learn of judges reporting the rate at which they dispose of cases over a period of time.[26]

Compatibility of Police and Prosecutor Objectives

The objectives of the police and prosecutor are, clearly, compatible. Both aim to remove the serious offender from the street and, more generally, to preserve the social order.

It is less clear that progress toward these objectives is enhanced by the police using arrests and arrest rates as the primary measure of their performance while the prosecutor uses conviction rates. The virtue of these measures at the agency level—that they are as free as possible from the influence of forces outside the agency—may represent a serious barrier to the attainment of objectives at the higher level at which the agencies taken together form a system. This barrier might manifest itself as tension between the police and prosecutor, since the police, in attempting to achieve a high arrest rate, might tend to do so at the expense of the quality of their arrests (for example, arrests with weaker evidence and involving less serious offenses).

It goes almost without saying that the prosecutor does not relish receiving from the police cases with weak evidence or involving relatively minor offenses.[27] Nor does he choose to measure the performance of his office by expressing the conviction rate in a formulation that includes the weakest arrests, as has been noted above, which would produce a lower conviction rate.

The upshot is that over half of all arrests made by the police are rejected or later dismissed by the prosecutor, as was shown in Exhibit 2.5, and these rejections are not accounted for in performance measures of either the police or the prosecutor. This majority of arrests represents a vast no-man's-land in the criminal justice system, a territory for which no agency appears willing to take clear responsibility.

REASONS GIVEN BY THE PROSECUTOR FOR REJECTING ARRESTS

We may be able to obtain some understanding about this enormous number of arrests that do not proceed beyond the prosecutor by examining the reasons indicated by the prosecutor for rejecting arrests. It was shown in Chapter 3 that an analysis of the data about these reasons can provide insights into other issues, such as why the conviction rate tends to be higher for cases in which the victim did not know the arrestee prior to the offense and for cases involving more witnesses.

Further insights can be obtained by examining whether the reasons given by the prosecutor for rejecting cases correspond to other inferences drawn in Chapter 3. Does the importance of witnesses and tangible evidence to the court outcome of the case, found earlier, reemerge

from an analysis of the reasons for rejection indicated by the prosecutor? Does the importance of these factors vary across major crime groups in a manner that resembles the general pattern observed earlier? To what extent does the prosecutor indicate that the police engage in questionable procedures in making arrests? These are the major questions that we address here.

Rejections at the Initial Screening Stage

In 1974, 21 percent of all arrests brought to the Superior Court Division of the U.S. Attorney's Office were rejected at the initial prosecution screening stage. In each of these 3,650 arrest rejections, the Assistant U.S. Attorney who handled the case gave a primary reason for refusing to prosecute.

The picture that emerges from an analysis of the indicated reasons is basically consistent with the results of Chapter 3. Exhibit 5.1 indicates that in the vast majority of all arrests rejected at the initial screening stage, the prosecutor specified either a witness problem (such as failure to appear, refusal or reluctance to testify, and lack of credibility) or a problem connected with nontestimonial evidence (such as unavailable or insufficient scientific or physical evidence). As before, we find witnesses to be especially important in violent offenses (compare Exhibit 5.1 with 3.4, 3.7, and 3.8), and tangible evidence to be especially important in cases involving property crimes (compare 5.1 with 3.4 and 3.11).[28]

EXHIBIT 5.1

ARREST REJECTIONS AT INITIAL SCREENING: REASONS GIVEN BY PROSECUTOR, BY MAJOR OFFENSE GROUP
(1974)

Rejection reason	Crime group					All crimes
	robbery	other violent	nonviolent property	victimless	other	
Witness problem	43%	51%	25%	2%	5%	25%
Insufficiency of evidence	35%	18%	37%	40%	41%	34%
Due process problem	0%	0%	2%	20%	3%	5%
No reason given	0%	0%	1%	0%	1%	1%
Other	22%	30%	36%	38%	50%	36%
Total rejections	100%	100%	100%	100%	100%	100%
Number of rejections	242	876	1,257	654	621	3,650
Number of arrests	1,955	3,176	6,562	3,659	2,182	17,534
Rejection rate	12%	28%	19%	18%	29%	21%

Source: Prosecutor's Management Information System (PROMIS).

Also evident in Exhibit 5.1 is a low rate of rejections at screening due to improper police conduct. Less than 1 percent of all arrests were

refused by the prosecutor with an indication that the police failed to protect the arrestee's right to due process (e.g., no probable cause for making the arrest, unlawful search for or seizure of evidence, inadmissible confession or statement).[29] And 77 percent of the 168 rejections that did occur at screening with the prosecutor indicating a violation of due process were in the victimless crimes group, primarily narcotics cases.

Dismissals by the Prosecutor After Case Filing

Most of the 8,766 arrests made in 1974 that were dropped by the prosecutor were dismissed ("nolle prosequi") after having been initially accepted. In many of these cases it may have been known at the time of initial screening that the case was marginal—the chance of conviction hinging largely on the outcome of a lineup identification,[30] a laboratory analysis of some evidence, the willingness of a key witness to support the prosecution of the case, or other such uncertain event. Given that it is much easier for the prosecutor to accept an arrest at the initial screening stage and dismiss it subsequently than it is to reject the arrest initially and then have it reintroduced, we should not be surprised to find that many cases accepted initially are later dropped by the prosecutor.[31]

We find that Assistant U.S. Attorneys in Washington, D.C., are much more inclined to give reasons for dropping a case at the initial screening stage than at a later time. Whereas prosecutors failed to record reasons in less than 1 percent of all rejections at initial screening, they failed to give reasons in nearly one-third of all prosecution dismissals. This phenomenon, shown in Exhibit 5.2, appears to be primarily a product of greater control being exercised over attorneys in filling out forms and documents at the initial screening stage than at subsequent stages.

Case dismissal reasons differ from arrest refusal reasons in other respects as well. Many dismissals are the product of a defendant's successful completion of a diversion program—28 percent of all dismissals were the result of such completions.[32] An additional 1 percent of all dismissals were the product of a private remedy, such as restitution to the victim.

Witness problems again revealed themselves as a factor, accounting for at least one-fifth of the dismissals in robbery cases and one-third of the dismissals in other violent cases.[33] Evidence insufficiency and due process problems constitute a small share (2 percent) of the prosecution dismissals; most of these problems can be presumed to have been identified at the time of initial screening.

THE "HYDRAULIC" PHENOMENON

It has been suggested that the performance of the police might be measured on the basis of the rate at which arrests are accepted at the initial court screening stage.[34] Better arrests can be expected to lead to higher conviction rates, as we have stated elsewhere, and one might expect higher conviction rates to be associated with lower rates of case rejection at the initial screening stage.

The rate of arrest rejection by the U.S. Attorney's Office has, in fact, declined steadily, from 26 percent in 1972 to 21 percent in 1974, as is

EXHIBIT 5.2

REASONS GIVEN BY THE PROSECUTOR FOR DISMISSING CASES INITIALLY ACCEPTED, BY MAJOR OFFENSE GROUP (1974)

Dismissal reason	Crime group					All Crimes
	robbery	other violent	nonviolent property	victimless	other	
Witness problem	20%	33%	12%	2%	5%	13%
Insufficiency of evidence	2%	1%	1%	1%	2%	1%
Due process problem	0%	0%	1%	3%	4%	1%
Completion of diversion program	1%	5%	30%	56%	13%	28%
Private remedy	0%	1%	2%	0%	1%	1%
No reason given	39%	34%	32%	26%	38%	32%
Other	38%	27%	22%	13%	37%	24%
Total dismissals	100%	100%	100%	100%	100%	100%
Number of dismissals	568	858	1,940	1,329	421	5,116
Number of arrests	1,955	3,176	6,562	3,659	2,182	17,534
Dismissal rate	29%	27%	30%	36%	19%	29%

Source: Prosecutor's Management Information System (PROMIS).

EXHIBIT 5.3

ARREST REJECTIONS AT INITIAL SCREENING: 1972-1974

	Year		
	1972	1973	1974
Arrests	12,121	15,460	17,534
Arrest rejections	3,137	3,572	3,650
Rejection rate	26%	23%	21%

Source: Prosecutor's Management Information System (PROMIS).

shown in Exhibit 5.3.[35] This might, indeed, reflect an improvement in the quality of the evidence and other factors that make it easier for the prosecutor to secure convictions.

During this same period, however, the rate at which the prosecutor dismissed cases after having initially accepted them increased even more sharply than the arrest rejection rate declined. This "hydraulic" effect is shown in Exhibit 5.4.[36]

An explanation for the apparent paradox of the prosecutor accepting arrests at an increasingly higher rate while also dismissing them sub-

EXHIBIT 5.4

CASE DISMISSALS AND REJECTIONS BY THE PROSECUTOR: 1972-1974

	Year		
	1972	1973	1974
Arrests	12,121	15,460	17,534
Dismissals by prosecutor	1,916	2,850	5,116
Dismissal rate	16%	18%	29%
Arrest rejections	3,137	3,572	3,650
Ratio of rejections to dismissals	1.64	1.25	0.71

Source: Prosecutor's Management Information System (PROMIS).

sequently at an increasingly higher rate is suggested by Alprin. In analyzing the reduction in the arrest refusal rate during 1972, he concluded: "we are convinced that . . . the Case Review Section [of the MPD] . . . had much to do with the reduction."[37] We explore this prospect more fully in Chapter 6.

Notes

1. Rule 4, "Federal Rules of Criminal Procedure," in *U.S. Code Annotated*, Title 18 (St. Paul, Minn.: West, 1975).

2. *Carroll v. United States, U.S. Supreme Court Reports*, vol. 267 (1925), pp. 132, 162.

3. *Brinegar v. United States, U.S. Supreme Court Reports*, vol. 338 (1949), pp. 160, 175.

4. *District of Columbia Code* (Washington, D.C.: Government Printing Office, 1973), Title 23, Section 561(a)(1).

5. In addition, an officer can arrest a person, without a warrant, when the officer has probable cause to believe that the person has committed or is committing an offense in his presence. See Title 23 of the District of Columbia Code, Section 581, for a precise wording about the officer's power to make an arrest without a warrant.

6. District of Columbia Bar Association, *Criminal Jury Instructions for the District of Columbia*, 2nd ed. (Washington, D.C.: Lerner Law Book, 1972), Instruction 2.09, p. 29.

7. Wayne R. LaFave and Austin W. Scott, Jr., *Handbook on Criminal Law* (St. Paul, Minn.: West, 1972), pp. 44-45.

8. One judge has given the opinion: "I have never yet heard any court give a real definition of what is a 'reasonable doubt,' and it would be very much better if that expression was not used." *Rex v. Summers, All England Law Reports*, vol. 1 (1952), pp. 1059-60.

9. It appears also that the prosecutor applies a less stringent evidentiary standard in the early stages of prosecution, especially prior to indictment, when laboratory reports, lineup identification results, and other evidentiary procedures are not yet complete.

10. *Brinegar v. United States, U.S. Supreme Court Reports,* vol. 338 (1949), pp. 160, 173.

11. According to Miller, "the law has consistently denied to the police the right not to arrest the probably guilty." Frank W. Miller, *Prosecution: The Decision to Charge a Suspect with a Crime* (Boston: Little, Brown, 1969), p. 152. In the District of Columbia, any police officer who fails to arrest a person when the officer has witnessed the offense "shall be deemed guilty of a misdemeanor." *District of Columbia Code,* Title 4, Section 143. A presidential commission has recommended against such statutes:

> the police should openly acknowledge that, quite properly they do not arrest all, or even most, offenders they know of. Among the factors accounting for this exercise of discretion are the volume of offenses and the limited resources of the police, the ambiguity of and the public desire for nonenforcement of many statutes and ordinances, the reluctance of many victims to complain and, most important, an entirely proper conviction by policemen that the invocation of criminal sanctions is too drastic a response to many offenses.

President's Commission on Law Enforcement and the Administration of Justice, *The Challenge of Crime in a Free Society* (Washington, D.C.: Government Printing Office, 1967), p. 106. Also, Joseph Goldstein, "Police Decisions in the Administration of Justice," *Yale Law Journal,* vol. 69 (1960), p. 543. As a practical matter, of course, it is difficult to enforce a law that requires the police to make an arrest. Hence, while the police may have less discretion than the prosecutor *de jure,* it may be otherwise *de facto.*

12. Perhaps the most often quoted statement reflecting this is by Davis:

> Viewed in broad perspective, the American legal system seems to be shot through with many excessive and uncontrolled discretionary powers but the one that stands out above all others is the power to prosecute or not prosecute. The affirmative power to prosecute is enormous, but the negative power to withhold prosecution may be even greater, because it is less protected against abuse.

Kenneth Culp Davis, *Discretionary Justice* (Urbana: University of Illinois Press, 1971), p. 188. A court decision pertaining to the U.S. Attorney is quite explicit: "as agent and attorney for the Executive, he is responsible to his principal and the courts have no power over the exercise of his discretion or his motives as they relate to the execution of his duty within the framework of his professional employment." *Newman v. United States,* D.C. Circuit *Federal Reporter,* 2nd series, vol. 382 (1967), p. 479. Also *Pugach v. Klein,* U.S. District Court, Southern District of New York, *Federal Supplement,* vol. 193 (1961), p. 630. For a survey of the prosecutor's discretion, see Sarah J. Cox, "Prosecutorial Discretion: An Overview," *American Criminal Law Review,* vol. 13 (Winter 1976), pp. 383-434.

13. Wayne R. LaFave, *Arrest: The Decision to Take a Suspect into Custody* (Boston: Little, Brown, 1967), p. 46.

14. Sanford H. Kadish and Monrad G. Paulsen, *Criminal Law and Its Processes: Cases and Materials* (Boston: Little, Brown, 1969), p. 1025. See also American Bar Association, *The Prosecution Function and the Defense Function* (New York, 1971), especially Standard 3.9, pp. 92-98.

15. Frank J. Remington, in the editor's foreword to Donald J. Newman, *Conviction: The Determination of Guilt or Innocence Without Trial* (Boston: Little, Brown, 1966), p. xv.

16. *Everett v. United States*, D.C. Circuit, *Federal Reporter*, 2nd series, vol. 336 (1964), pp. 979, 984. A major study has found juries to refuse to convict persons who were proven guilty beyond a reasonable doubt. Harry Kalven, Jr., and Hans Zeisel, *The American Jury* (Chicago: University of Chicago Press, 1966).

17. Newman, *Conviction*, p. 133. Newman has devoted a chapter to each of several factors that lead to these decisions: judicial discretion, minor violations, the existence of better alternatives than conviction, and defendants who do not deserve a conviction record. *Ibid.*, pp. 131-72. See also, *Pugach v. Klein*, above.

18. Institute for Law and Social Research, *Curbing the Repeat Offender: A Strategy for Prosecutors*, Publication no. 3, PROMIS Research Project (Washington, D.C., 1977); Brian Forst and Kathleen B. Brosi, "A Theoretical and Empirical Analysis of the Prosecutor," *Journal of Legal Studies*, vol. 6 (January 1977), pp. 177-92.

19. A landmark book on this subject is Herbert L. Packer, *The Limits of the Criminal Sanction* (Palo Alto, Calif.: Stanford University Press, 1968), especially part II.

20. The Metropolitan Police Department appears to be a noteworthy exception to the tendency for police agencies to rely heavily on arrest statistics to measure performance. In the *Fiscal Year 1975 Annual Report*, Chief Maurice Cullinane writes: "Of course, reducing crime is our police department's primary goal—the focal point of our total effort" (p. 1). He went on, to his credit, to add that reported crime had increased slightly that year.

21. Especially, Davis, *Discretionary Justice;* Robert H. Jackson, "The Federal Prosecutor," *Judicature*, vol. 24 (1940), p. 18. Note, "Prosecutor's Discretion," *University of Pennsylvania Law Review*, vol. 103 (1957), p. 1057; Albert J. Reiss, "Discretionary Justice in the United States," *International Journal of Criminology and Penology*, vol. 2 (May 1974), p. 195; and Joseph Goldstein, "The State and the Accused: Balance of Advantage in Criminal Procedure," *Yale Law Journal*, vol. 69 (1960), p. 1066.

22. William M. Landes, "An Economic Analysis of the Courts," *Journal of Law and Economics*, vol. 16 (April 1971), p. 61. Another exception, deriving from Landes' work, postulates crime control as a possible objective of prosecution. Institute for Law and Social Research, *Curbing the Repeat Offender*.

23. INSLAW, *ibid.* The importance that the prosecutor attaches to conviction statistics is reflected also in congressional testimony of the U.S. Attorney for the District of Columbia. Testimony of Earl J. Silbert, *Pretrial Release or Detention*, joint hearings of the Subcommittee on

Judiciary and Committee on the District of Columbia, U.S. House of Representatives, 94th Cong., 2nd sess., June-August 1976, pp. 275-76.

24. Silbert testimony, *ibid.* See also Institute for Law and Social Research, *Expanding the Perspective of Crime Data: Performance Implications for Policymakers*, Publication no. 2, PROMIS Research Project (Washington, D.C., 1977), pp. 9-16.

25. National Legal Data Center, *Verdict*, vol. 1 (February/March 1976), p. 3.

26. Chief Judge Harold H. Greene begins his review of Superior Court operations, in the 1974 *Annual Report for the District of Columbia Courts*, with the statement: "As every year since 1966, the Superior Court was again able in 1974 to dispose of a large number of cases in a great variety of areas of litigation swiftly and without the accumulation of backlogs and unwarranted delay" (p. 17).

27. The prosecutor in Washington, D.C., has acknowledged his responsibility "to weed out those cases that don't merit prosecution." Silbert, *Pretrial Release or Detention*, pp. 275-76.

28. In using the code "insufficient evidence" as the reason for dropping a case, prosecutors may in some instances have intended to refer to insufficiencies that pertain to evidence other than tangible evidence.

29. It is possible that more than 168 arrests made in 1974 were really rejected for this reason, but the prosecutor was unwilling to indicate police violations of due process in each instance in which such violations were evident. Some screening attorneys may have been discouraged from indicating violations of due process because of the prospect of a subsequent confrontation with the MPD's Case Review Section (see discussion on this subject in Chapter 6).

30. See discussion of "Case Review Section," Chapter 6.

31. A former official of the U.S. Attorney's Office has offered another explanation: It is easier to drop the case after filing because the prosecutor is not face-to-face with the arresting officer.

32. See Chapter 2, note 11.

33. The numbers appear to understate the true extent of dismissals due to witness problems, since the 1974 data do not include a data element that reflects failure to identify the suspected offender at lineup. Some of these failures are likely to have nonetheless been recorded as witness problems in Exhibit 5.2. This category is accounted for separately in more recent data, not available for analysis at the time of this writing.

34. Urban Institute, *The Challenge of Productivity Diversity: Part III–Measuring Police-Crime Control Productivity*, report prepared for the National Commission on Productivity (Washington, D.C., 1972); also Geoffrey M. Alprin, "D.C.'s Case Review Section Studies the 'No-Paper' Phenomenon," *Police Chief*, April 1973, pp. 37, 41.

35. Preliminary data for 1975 indicate a continuation of this trend, with a rejection rate of 17.3 percent.

36. Preliminary data indicate that the number of rejections per dismissal continued its decline, to 0.65 in 1975.

37. Alprin, "D.C.'s Case Review Section," p. 39.

6. An Expanded Police Perspective

In the absence of a radical transformation of the criminal justice system, most arrests are likely to continue not to end in conviction. Indeed, this phenomenon may owe part of its very existence to an earlier radical development: an explosion in the number of crimes since 1960.[1]

The police have demonstrated extraordinary willingness to change their own operations in the face of these and other pressures. One prominent observer has remarked: "Of all the parts of the criminal justice system with which I am familiar, the greatest receptiveness to innovation . . . has been the police component."[2] This observation surely applies to Washington's Metropolitan Police Department. In recent years the MPD has instituted a number of innovative programs and practices that indicate that the police perspective on criminal law enforcement in Washington is, indeed, broader than patrol, investigation, and arrest—that police do look past the arrest and attempt to better coordinate their operations with those of the prosecutor and court. These innovations include the use of the prosecutor's data in police operations; the establishment of an Office of the General Counsel in the Department; a program to improve the handling of witnesses by police; procedures to ensure accurate identification of offenders; rigorous procedures for obtaining evidence; and joint projects with the prosecutor to reduce crime.

Programs such as these are likely to improve the criminal justice process in several ways. They may ensure that the police officer does not miss a court appearance through oversight or faulty scheduling. They may more effectively communicate the law to the police. They may ensure that lay witnesses are available and willing to testify, and that innocent persons are not prosecuted. They may identify and preserve the evidence. They may ensure that the cases involving repeat offenders are identified as such, based on information on convictions as well as arrests, and pursued with appropriate thoroughness.

In this chapter, these programs and practices will be reviewed to indicate how they operate, what resources are required, and what specific benefits and problems appear to be associated with them.

USE OF PROMIS DATA IN POLICE OPERATIONS

Officers of the Metropolitan Police Department presently receive the prosecutor's data at several stages of police operations.[3] They make inquiries into PROMIS to obtain information about (1) the current case status and schedule of forthcoming events; (2) the pending cases or recent case history of any defendant; (3) the entire case load and scheduled court time of any officer; and (4) daily case disposition reports.

A survey by the MPD's Data Processing Section showed that during one six-month period in 1976 more than 49,000 inquiries of PROMIS were made by officers of the MPD.[4] One frequent type of MPD inquiry is for assistance in setting court dates for officers. This is no small task, in view of the fact that an officer may be required to appear in court several times in a single case; moreover, some officers have many cases, as was shown in Chapter 4. The MPD or an individual officer can learn about the officer's schedule of forthcoming court appearances by entering his or her badge number in a computer terminal located in the station house.

The MPD also uses the prosecutor's data for management purposes—to monitor the amount of time officers spend in court and to review the reasons given by prosecutors for rejecting cases.[5] In addition, daily case disposition reports generated by PROMIS provide data to the police so that they may augment their criminal history records with information about convictions. These reports also give the police the opportunity to assess the performance of the department, units within the department, and individual officers in terms of convictions and conviction rates. We are not aware, however, that the MPD is actually using these recently developed reports in this potentially valuable way.

THE OFFICE OF THE GENERAL COUNSEL

Following the recommendation of a presidential commission, the MPD established the Office of the General Counsel in 1967.[6] The General Counsel reports directly to the Chief of Police and participates in staff meetings at which current operations and broad policy issues are discussed. He gives technical and policy-related legal advice to all the branches, divisions, and districts of the police department. The General Counsel serves also as a liaison between the police department and prosecutor, providing a channel for more open communication and coordination between these two agencies of the criminal justice system.

In an attempt to avoid violations of due process and to maintain the legal integrity of the evidence in each MPD arrest, the Office of the General Counsel has prepared general orders on various aspects of police procedure, including automobile searches, the preservation of potentially discoverable material, eyewitness identification, implementation of the Implied Consent Act,[7] "stop-and-frisk" laws, use of the detention journal,[8] and the processing of summonses and subpoenas. The office also keeps the MPD informed about statutes and court decisions that might affect operations by preparing special orders and circulars, both more limited in scope than the general orders.

In addition, the Office of the General Counsel participates in the in-service training program of the department, as a means of imparting relevant information about the law to police officers. One aspect of this participation has been the production of training films, including one on witness handling (described below) and another on stop-and-frisk procedures.

Because the rules of criminal procedure are complex and in a state of frequent change—especially those pertaining to making arrests, taking

evidence, obtaining statements, and establishing identifications—police officers who are trained in the applications of these rules and who have ready access to expert counsel in the interpretation of the rules would appear to be more likely to make arrests that will hold up in court.

THE CASE REVIEW SECTION

To facilitate the process of liaison between the police and prosecutor, the MPD formed a Case Review Section in 1972, within the Office of the General Counsel. The principal objective of the Case Review Section is to improve coordination between the MPD and the U.S. Attorney's Office.[9]

The need for coordination arises largely out of the differences between the police and prosecutor. Among the more fundamental differences are the following: (1) the police focus traditionally on making arrests, while the prosecutor focuses mainly on convictions;[10] (2) the primary training of the prosecutor is in the law, which differs considerably from the police officer's training in law enforcement; (3) the police operate largely on the streets, physically amidst the public, while the prosecutor works in the courthouse, a strikingly different environment; (4) the police may be more inclined than the prosecutor to view the law, particularly those aspects designed to ensure due process, as a constraint on their operations;[11] (5) the police appear to have less discretion under the law than the prosecutor;[12] and (6) the prosecutor faces a higher evidentiary standard in pursuing conviction than does the police officer in making the arrest.

The underlying differences between the police and prosecutor may manifest themselves as frustration on the part of the police that arrests are so often rejected or dismissed by the prosecutor, or otherwise plea bargained in such a way that the defendant is soon back on the street.[13] On the other side, the prosecutor may be frustrated that the police do not bring in arrests with better evidence.

It is surely appropriate for both the police and prosecutor to move beyond such partisan considerations, and the Case Review Section is a logical MPD vehicle for such progress. Toward this end, the Case Review Section reviews all arrests, before they are presented to a screening attorney of the prosecutor's office, to ensure that all the necessary papers and forms are present and properly filled out and that the criminal incident has been adequately described by the arresting officer. The section also reviews all the cases rejected by the prosecutor at screening, largely to provide feedback to arresting officers for the benefit of their performance in subsequent arrests. As a result of this process, the section can uncover recurring police problems that might require the attention of the MPD's Training Division in either pre-service or in-service training programs. Such discoveries can also lead to the reformulation of policies by the MPD or the U.S. Attorney, or both.

The Case Review Section also resubmits cases to the prosecutor when disagreement arises over arrests rejected by the screening attorney.[14] This is unlike the section's other primary functions—arrest review prior to prosecutor screening and feedback to arresting officers in arrests re-

jected by the prosecutor—in that it is basically adversarial in nature. In some instances, the section will review a rejected case, determine that the arrest ought to have been accepted for prosecution, resubmit it (generally to a more senior attorney than before), and have it accepted the second time around.[15]

The section is especially concerned about arrest rejections that reflect on police performance. As was shown in Chapter 5, a small proportion of all arrests were rejected with an indication of some sort of police failure to assure that the arrestee's right to due process was fully protected. Information about these rejections is routinely communicated back to the arresting officer's supervisor for feedback to the officer and other appropriate action.

The Case Review Section appears to be a primary factor behind the decline in the rate at which arrests were rejected by the prosecutor at the initial screening stage from 1972 through 1974.[16] The section's prescreening function and its information feedback process appear, in particular, to be totally compatible with the objective of coordination between police and prosecutor that gave rise to the section in the first place; this coordination seems likely to have contributed to the reduced rejection rate.

It appears equally evident, however, that the Case Review Section was a factor behind the increase in the rate at which the prosecutor dismissed cases after the initial screening stage from 1972 through 1974.[17] A natural response of the prosecutor to the process of police review and resubmittal of cases at the screening stage is to accept the cases initially, possibly in order to preclude the possibility of resubmittal, and to drop them subsequently. We are not aware of other factors that might explain the apparent paradox of this hydraulic phenomenon—the prosecutor's accepting cases at an increased rate at the initial screening stage and then dismissing them afterward at a much higher rate than before.

If it is at all appropriate in the first place for the police to review routinely the prosecutor's case rejection decisions, the structure in which this review process operates at the time of this writing appears to be too easily bypassed by the prosecutor for the process to be regarded as effective.[18] More fundamentally, however, this aspect of the Case Review Section's operations, unlike the other functions of the section, may serve as a barrier to the police and prosecutor working harmoniously toward the common objectives of justice and crime control.

IMPROVEMENTS IN THE POLICE TREATMENT OF WITNESSES

In the absence of solid testimonial evidence, the prosecutor can rarely meet the standard of evidence sufficient to convict the defendant. As was shown in Chapter 3, the likelihood of conviction is determined to a great extent by the number of witnesses and by certain characteristics of witnesses, such as whether they knew the defendant prior to the occurrence of the offense. Conviction is likely to be determined as well by characteristics of witnesses that are not recorded in the data.

The police have a central responsibility in this area. The quality of testimonial evidence is surely determined in part by the information

given to witnesses by the police and the manner in which it is communicated. It is determined also by the ability of the police to record accurately information about witnesses, especially information as basic as names, addresses, and telephone numbers. The importance of these fundamental police responsibilities has been well documented.[19] However, to ensure that the treatment of witnesses by the police is really improved, measures must be taken to inform police officers of the importance of their role in the handling of witnesses and to train them so that they know how to encourage witnesses to cooperate with the prosecutor.

Such measures have been initiated by the MPD. One such development has been the production of a training film on effective procedures of witness treatment. The film reminds officers of the importance of interviewing witnesses privately, beyond the hearing range of the arrestee; verifying information about names and addresses of all witnesses;[20] and informing witnesses clearly about what will be expected of them in court, including information about the time and place of the first court appearance.

EFFECTIVE CRIMINAL IDENTIFICATION PROCEDURES

Witnesses play a dual role in cases involving stranger-to-stranger offenses. They must be expected not only to testify about the facts pertaining to the crime, as must witnesses in cases involving nonstrangers, but also to positively identify the offender.[21] In such cases the police can enhance the likelihood of convicting the offender by turning the witnesses' descriptions of the offender into an accurate identification. When the witness identification of the offender is not made "on the scene" (i.e., right after the offense), the identification is accomplished in two stages: photographic identification and lineup identification.

Photographic Identification

A color slide photograph is taken of every person arrested by the MPD, and filed by crime category, under the presumption that offenders tend to specialize in the offenses that they are suspected to have committed. The categories are fairly detailed, including robbery, burglary, grand larceny, sexual assault, assault with a dangerous weapon, narcotics, carrying a dangerous weapon, soliciting for lewd and immoral purposes, and indecent exposure. Within the violent crime categories, the photographs are sorted by other aspects of the offense, such as type of weapon and whether threats or force were used.[22] Within these subcategories, they are further organized by the arrestee's personal characteristics (sex, race, age, height, and complexion). A person who has arrests in more than one of the offense categories will generally have his or her picture filed once in each such category.

Witnesses view the slides in the presence of only the police investigator assigned to the case, and they control the speed at which slides are changed. The investigator notes the witnesses' comments and, if one picture produces a clear response that that is the offender, the person so identified will be arrested and directed by the court to appear in a lineup.

The process of photo-identification is truly on the edge of the sword

that separates the objective of crime control from that of protection of the innocent. Many instances may exist in which the offender was apprehended only as a result of an accurate photographic identification by a witness. Many other instances may exist in which the witness was quite sure of an accurate identification, yet in fact mistaken. Among more than 50,000 photographs, it will often be the case that a picture of at least one person will resemble the offender, yet not be that person. Subsequent identification of the pictured person at a lineup might reflect only that the witness remembered and identified the person who was in the picture, not the person who committed the offense.

The Lineup

One of the principal means by which the police support the prosecutor after the arrest in stranger-to-stranger crime episodes consists of the operation of the lineup identification. The Metropolitan Police Department conducts a carefully controlled lineup in an attempt to ensure both that innocent persons are not wrongfully identified and that witnesses are not intimidated by the live appearance of the offender. Witness intimidation is discouraged by the use of one-way glass, special lighting, soundproofing, and separate entrances and exits for the defendants and witnesses.

To reduce the likelihood of the identification of a truly innocent person, the MPD presents the defendant as one of a group of from 8 to 12 people all of basically similar appearance—the same race and sex, and of similar height, build, and complexion.[23] The defense counsel is given the opportunity to rearrange the grouping as he or she desires. The lineup is then photographed and the witnesses' comments and other reactions are recorded on color videotape with sound, so that the prosecutor, judge, and jury can be provided the opportunity to observe accurately the degrees of firmness, shock, and hesitation expressed by each witness, as well as the resemblance between the defendant and the others in the lineup.

SECURING AND ANALYZING THE EVIDENCE

It was shown in Chapter 3 that the recovery of tangible evidence appears often to be the crucial element in the eventual determination of whether or not the defendant is convicted. While police investigators and patrol personnel play a role in the securing of evidence, the principal responsibility for securing and analyzing the evidence belongs to crime scene examination specialists. This separation of responsibilities—evidence technicians handling evidence and other officers handling witnesses and suspects—has the primary aim of realizing economies of specialization. The skills required for each set of responsibilities are different in many respects.

The evidence technician is called to the scene of the crime to obtain any evidence that may be of potential value to the prosecutor—weapons, ammunition, clothing, hair, skin and blood samples, fingerprints, and so on. Photographs are usually taken, and maps or other diagrams may be drawn. The MPD analyzes most of these items of evidence; some, however, may be examined by the FBI or the Bureau of

Alcohol, Tobacco, and Firearms, depending on the nature of the case.

The MPD uses its crime scene examination specialists on two levels. A central team of highly trained evidence technicians is available around the clock to obtain and analyze the evidence in cases involving homicide, armed robbery, and other very serious offenses. Local teams of crime scene examination specialists, assigned to each of the seven MPD districts, handle the less serious offenses.

JOINT PROJECTS WITH THE PROSECUTOR

The police programs described above reflect cooperation with the prosecutor, since they are aimed at the preservation or enhancement of the evidence in the case. Police cooperation with the prosecutor is perhaps most clearly visible in a recent and unique program through which the Metropolitan Police Department participates actively in specific crime control projects with the U.S. Attorney's Office.

"Operation Sting"

Among the most highly publicized crime control innovations in the country in the past few years have been the MPD's fake fencing operations.[24] Started in late 1975, these operations consisted of police officers posing as buyers of stolen goods, recording each transaction on videotape with sound, and then arresting the sellers of the goods after assembling them under the pretense of some sort of special event.

The first such project has come to be known as "Operation Sting," out of its resemblance to the motion picture of a similar name. This operation began with a list of some 3,000 typewriters stolen from commercial organizations, and no suspects. After a couple of false starts, a phony fencing operation, "PFF, Inc." (a police code name for Police-FBI Fencing, Incognito), was initiated in a warehouse in northeast Washington.[25]

For four months, half a dozen police officers and FBI agents familiar with street talk and customs, posing as representatives of an out-of-town syndicate, bought office equipment, television sets, stolen checks, jewelry, and other stolen goods from thieves, robbers, pursesnatchers, and commercial hijackers. They used mock names (like Rico Rigatoni and Angelo Lasagna), served meatballs so spicy that no one wanted seconds, used *Playboy* centerfolds to focus the attention of customers on the hidden cameras, and claimed deafness from old gunshot wounds to induce customers to speak up for the recordings. They bought $2.4 million worth of stolen goods (including $1.2 million of federal government checks), for a fraction of that amount, with funds provided by the Law Enforcement Assistance Administration.

When after four months they were out of money, swamped with stolen goods, and overwhelmed with the administrative detail required to keep track of all the evidence, they invited their customers to a formal party to meet the fictitious "Don." In honor of the Don, the hosts removed all guns from their guests' tuxedoes, and then handcuffed the awestruck guests and marched 108 of them to jail, and put warrants out for 75 others.

The cooperation of many agencies was required to plan the operation, carry it out in secrecy, and close it successfully with multiple arrests. The prosecutors carefully studied the legal ramifications and advised the police on how to avoid entrapment of their customers (many of whom had offered to steal on order; the offers were politely declined) and how to obtain sufficient evidence. The New York City Police Department, having conducted similar operations, advised the Washington team on security and surveillance methods. The FBI, in addition to providing assistance in setting up and staffing the operation, provided the expertise in handling the complex paperwork requirements so that the taped evidence and stolen merchandise could be linked to the correct defendant to make solid court cases. Suburban police departments helped to arrest suspects who lived in nearby jurisdictions. Secret Service agents took charge of stolen government checks. And agents of the Bureau of Alcohol, Tobacco, and Firearms provided funds to buy fenced guns, and then traced them to the original owners.

"Got Ya Again"

One month before the February 28, 1976, roundup of the PFF, Inc., defendants, a second phony fencing operation was opened in northwest Washington with a slightly different slant. Instead of white officers impersonating Mafia hoods and buying goods largely from commercial thefts and robberies, black officers impersonated local street criminals. Working for an ostensibly legitimate firm ("H and H Trucking"), and participating in fencing activities when their "boss" was out of town, they appealed largely to residential burglars and street robbers. H and H, they said, was affiliated with the "GYA Corporation" (for Got Ya Again).

H and H Trucking employees bought $1.2 million worth of stolen goods, using $87,000 granted them by LEAA. This operation, like "Sting," closed when funds ran out and sufficient evidence had been accumulated. Its customers were sold $10 raffle tickets for a nonexistent Cadillac Eldorado, and 70 were arrested when they showed up for the drawing on July 6, 1976. Warrants were issued for 70 more, who had provided accurate addresses and phone numbers so that they could be notified if they won the automobile.

Handling Recidivists: "Operation Doorstop"

One of the most revealing aspects of the fake fencing operations was the extent to which they exposed the problem of recidivism.[26] Seventy of the suspects arrested in Operation Sting had been arrested before on similar charges (including grand larceny, theft from the mails, theft from a government building, robbery, and burglary). Twenty-one were on parole from previous convictions. One of these had been arrested six times previously since being released on parole and had been released each time on his own recognizance or on small bail amounts.

Of the 140 GYA defendants, half had been previously convicted or were awaiting trial in other cases. Nine of these suspects had been arrested in Operation Sting. Most of the defendants were young and without legitimate employment.

Virtually all of the 400-plus defendants from the two operations were convicted. Because the videotaped evidence was so conclusive, and because the U.S. Attorney devoted considerable attention to these cases,[27] guilty pleas were especially common. The sentences handed down ranged from probation to 50 years in prison. Most received one-year sentences.[28]

Other developments raised further questions about the previous treatment that had been given to recidivists by the criminal justice system in the District of Columbia. Foremost among these were research findings reported in testimony before a joint committee of the U.S. House of Representatives in 1976.[29] Following this testimony, there ensued extensive discussion about the policies and practices pertaining to the handling of cases involving repeat offenders[30] and recommendations that these cases receive more thorough preparation, toward the objective of crime control.[31]

In the month following these recommendations, the Metropolitan Police Department and the U.S. Attorney's Office announced a joint project to devote more attention to cases involving repeat offenders. Because the prior handling of these cases had caused the criminal justice system to be likened to a revolving door, through which repeat offenders continually entered, exited, and reentered,[32] this program was given the name "Operation Doorstop."

Prior to the creation of Doorstop, case screening had been handled primarily by the least experienced prosecutors, who, because of the case load, had only a few minutes to consider the facts and implications of any given case, especially in the early stages of prosecution. When a felony case was accepted at screening, it was then ordinarily handled by two or more different Assistant U.S. Attorneys on its way through indictment by the grand jury. Then, if the case survived that far, it was typically assigned to an experienced assistant who would assume responsibility for the case all the way through the final disposition stage.

Under the new program, felony cases involving recidivists are assigned to the Career Criminal Unit—a team within the prosecutor's office, consisting of four experienced Assistant U.S. Attorneys, five experienced police detectives, one police sergeant, and paralegal and secretarial personnel. The cases of defendants who are candidates for prosecution by this unit are identified by the police prior to screening so that those cases can receive the attention of the same attorney from the screening stage through indictment.

Once selected, the case receives an intensive investigation and preparation that is not available for the run-of-the-mill case. It is determined quickly whether additional police work is needed immediately to prevent the loss or destruction of potentially important evidence. If the defendant is on probation or parole, the probation or parole officer is contacted in order to set in motion proceedings to terminate the defendant's release status. Computer records are searched for a detailed documentation of the defendant's prior record of arrests and convictions.

By the time of presentment, then, enough is known about the defendant, the present case, and the defendant's prior criminal history that the

prosecutor is able to make a strong argument for detaining the defendant prior to trial.[33]

The processing of Doorstop cases is expedited from screening through indictment and on to the trial stage. The time spans from screening to preliminary hearing and from preliminary hearing to indictment are roughly half those for other cases. After indictment, the case is taken over by one of the prosecutors assigned to a felony judge.

This intensive prosecutive attention, which was not generally given before Doorstop, plus prompt and concentrated police investigation and the prevention of pretrial release, constitute a three-pronged attack on the problem of recidivism. The effects of this attack appear already to have been felt in the District of Columbia. Fifty-two of the first 60 defendants handled in the program during the initial two months of its operation were jailed prior to trial, rather than being released with an opportunity to commit further crimes while awaiting trial.[34]

While several jurisdictions have developed career criminal programs in recent years, some aspects of the program in Washington are quite distinctive. Foremost among these is the large role played by the police. Where these programs exist elsewhere,[35] they are typically initiated and staffed primarily by prosecutors. Doorstop has been characterized by an unusually high degree of cooperation between the police and the prosecutors, both in organizing the program and in its daily operation. The court has also cooperated in the program. Before Doorstop was announced, police and prosecutors consulted with the Chief Judge of the Superior Court, who agreed to make judicial resources available to expedite hearings in the cases handled by this special team. In addition, one grand jury was designated to hear all of the cases.

Operation Doorstop appears, in short, to serve as a remarkable model of the kind of program that is clearly capable of bringing the criminal justice system closer to its objectives. It is remarkable especially because it demonstrates that components of the criminal justice system can expand their effectiveness by giving up parochial perspectives that have long prevailed.

Notes

1. The FBI estimates that from 1960 to 1975, the number of murders in the United States increased by 125 percent, the number of robberies by 331 percent, and the number of burglaries by 257 percent. Federal Bureau of Investigation, *Uniform Crime Reports* (Washington, D.C.: Government Printing Office, 1976), p. 11.

2. James Q. Wilson, "Coping with Crime," *Criminal Justice Review*, vol. 1 (Fall 1976), p. 7.

3. See note 11, Chapter 1, and the accompanying text for a description of the data.

4. *PROMIS Newsletter*, vol. 1, no. 3 (December 1976), p. 7.

5. This review process is discussed later in the chapter.

6. The specific recommendation was as follows:

The department should employ a permanent General Counsel to assist in the preparation of training materials and the formulation of

operational procedures, in collaboration with the U.S. Attorney and the Corporation Counsel.

Report of the President's Commission on Crime in the District of Columbia (Washington, D.C.: Government Printing Office, 1966), p. 227. Soon afterward, another presidential commission stated that "efforts to establish the position of police legal advisor and to make it an attractive one for skilled attorneys must begin immediately." President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: The Police* (Washington, D.C.: Government Printing Office, 1967), p. 67. A similar recommendation was made by the National Commission on Criminal Justice Standards and Goals in its volume *Police* (Washington, D.C.: Government Printing Office, 1973), pp. 280-88. The need for legal advisors to police has also been recognized by the International Association of Chiefs of Police, and presented in its publication, *Guidelines for a Police Legal Unit* (Police Legal Center of the IACP, Inc., Research Division, 1972), and by the American Bar Association, *Standards Relating to the Urban Police Function* (New York: 1973), pp. 238-51.

7. The District of Columbia Implied Consent Act (Public Law 92-519, October 21, 1972) provides that any person operating a motor vehicle in the District is deemed to have given his consent to a chemical test of his blood, breath, or urine for the purpose of determining alcohol content or drug usage. The tests themselves, or the refusal to consent to them, may serve as a basis for suspension of the motor vehicle operator's license by the Division of Motor Vehicles.

8. The detention journal is a nonpublic record of cases in which a person was arrested and found afterward not to have committed the crime. This occurs most often in cases of mistaken identity, instances in which an alibi is verified, and so on. The detention journal is a confidential and detailed account of the arrest episode, including the reasons for release without charge.

9. Hence, it is not coincidental that the Case Review Section is physically situated in the courthouse, a short distance from the prosecution screening office, and staffed with two senior police officers.

10. See the discussion in Chapter 5 on "Agency Objectives and the Measurement of Performance."

11. For example, Alan Barth, *Law Enforcement versus the Law* (New York: Collier Books, 1961); Quinn Tamm, "Police Must Be More Free," in *Violence in the Streets*, Shalom Endelman, ed. (Chicago: Quadrangle Books, 1968); and James S. Campbell, Joseph R. Sahid, and David P. Stang, *Law and Order Reconsidered*, Report to the National Commission on the Causes and Prevention of Violence (Washington, D.C.: Government Printing Office, 1969), p. 289.

12. See Chapter 5, notes 11 and 12, and accompanying text.

13. An example of an expression of this police frustration is in Lewis M. Phelps, "On Becoming a Crime Statistic," *Wall Street Journal*, September 9, 1974, p. 12.

14. This function is described in Geoffrey M. Alprin, "D.C.'s Case Review Section Studies the 'No Paper' Phenomenon," *Police Chief*,

April 1973, p. 36. See also "The Criminal Justice System in the District of Columbia" in Chapter 2.

15. Unfortunately, we have no information about the number or eventual outcomes of such cases.

16. This decline, discussed in Chapter 5, appears to have continued into 1976. Robert E. Deso, "General Counsel's Column: The Police and the Prosecutor, Part II," *Metro-Intercom*, vol. 8 (April 1976), p. 5. An earlier decline in the arrest rejection rate at the initial screening stage attributable to the Case Review Section was reported by Alprin, "D.C.'s Case Review Section," p. 39.

17. See Chapter 5, "The Hydraulic Phenomenon," pp. 68-70.

18. Beginning in 1977, the MPD received the PROMIS Management Report, which gives information about case dismissals as well as rejections. We are not aware that the MPD has followed up the monitoring of dismissals with an attempt to reduce the prosecutor's dismissal rate.

19. See, for example, Frank J. Cannavale, Jr., and William D. Falcon, ed., *Witness Cooperation With a Handbook of Witness Management*, Institute for Law and Social Research (Lexington, Mass.: D.C. Heath, 1976); Alan Carlson and Floyd Feeney, in Feeney and Weir, eds., *The Prevention and Control of Robbery* (University of California at Davis, Center of Administration of Criminal Justice, 1973), vol. II, Ch. 8; and Charles E. Silberman, *Criminal Violence, Criminal Justice*, prepublication manuscript (Mt. Vernon, N. Y.: Study of Law and Justice, 1977), part II, Ch. 9.

20. Cannavale and Falcon, *ibid.*, pp. 5-6, 37, 51-53.

21. See Chapter 5, notes 1 and 4, and accompanying text.

22. It is noteworthy that the organization that maintains these files is called the "Modus Operandi Section." At the time of this writing, these files contained 56,000 slides, sorted primarily by details of the offense. In view of the considerable crime switching we have found in related research, this sorting system may not be the most efficient. Institute for Law and Social Research, *Highlights of Interim Findings and Implications*, Publication no. 1, PROMIS Research Project (Washington, D.C., 1977), pp. 12-13.

23. Makeup and props, such as a cast on the arm, are also used under appropriate circumstances. These and other details of the lineup are carefully recorded and made available to both the defense counsel and the prosecutor in the event of a positive identification by the witness.

24. For example, see articles in the *Washington Post*, March 1, 1976: "Police, FBI Arrest 108 in Fake Fencing Project" (p. A1) and "Secrecy Cloaked Police Fence Ring" (p. A2). Subsequent articles appeared in the *Post* on March 2, 3, 4, and 7, and July 8 and 10, 1976.

25. The first attempt, called "Urban Consultants," was set up in October 1975 in an office on business-oriented K Street, N.W. It received more job applications than proffers of stolen goods. A futile second attempt was set up too close to the police-saturated crime and narcotics corridor of 14th Street, and burglars were evidently afraid to bring their goods into that area for sale.

26. The Sting and GYA operations also revealed some tensions

within the criminal justice system itself. While cooperation was demonstrated between the police and prosecution components, law enforcement officials suggested that judges were releasing too many defendants from jail and not setting high enough bail. One judge responded by pointing out that police made arrests in only 18 percent of the reported robberies and 22 percent of the reported burglaries. "Judge Criticizes Police Chief," *Washington Post*, July 8, 1976, p. B1. In addition, the Parole Board was criticized for not moving fast enough on parole revocations of arrestees under its supervision. Representatives of these agencies later met with each other to find better ways of coping with their problems. For further information, see "Police, Judicial Chiefs Set Meeting to Resolve Dispute," *Washington Post*, July 10, 1976, p. B1.

27. Testimony of Earl J. Silbert, *Pretrial Release or Detention*, joint hearings of the Subcommittee on Judiciary and Committee on the District of Columbia, U.S. House of Representatives, 94th Cong., 2nd sess., June-August 1976, p. 275.

28. We do not know how much time was actually served on these sentences. Lt. Robert Arscott, a supervisor of both Operation Sting and GYA, has pointed out to us that the crime rate in the District of Columbia, which dropped while these persons were incarcerated, has begun to resume its increase since their release.

29. Testimony of William A. Hamilton, in *Pretrial Release or Detention*, pp. 30-33. These findings later appeared in Institute for Law and Social Research, *Curbing the Repeat Offender: A Strategy for Prosecutors*, Publication no. 3, PROMIS Research Project (Washington, D.C., 1977).

30. *Pretrial Release or Detention*, pp. 66-67, 78, 114-15, 157, 161-64, 170-83, 231, 368, 375-76, 385.

31. *Ibid.*, pp. 61-62, 67-68, 114-15, 158, 160, 166, 184-86, 189, 245-46, 383, 385.

32. For example, see James Q. Wilson, *Thinking About Crime* (New York: Basic Books, 1975), p. 163; also Patrick R. Oster, "Revolving Door Justice: Why Criminals Go Free," *U.S. News and World Report*, May 10, 1976.

33. Detention can be accomplished in a number of ways. If the defendant is on probation or parole, he can be held by order of the judge for five days without bond while the decision is made whether to revoke such a release and detain him on the prior charge. Or bail can be set at a high amount on the assumption that the severity of the charges against him make it very likely that he will attempt flight. Or a detention hearing can be held at which the prosecutor requests that the court hold the defendant without bond until trial.

34. "Team Nets Criminal Repeaters," *Washington Post*, October 19, 1976, p. B1. While one official attributed Washington's crime rate reduction in late 1976 to the effects of the fake fencing operation (see note 26), others have attributed it to Doorstop. "Serious Crime Falls in November as City Checks Recidivists," *Washington Post*, December 4, 1976, p. B1. It may, in fact, be the effect of both—or of neither.

35. The Law Enforcement Assistance Administration has funded

career criminal programs in New Orleans, Detroit, Indianapolis, San Diego, Manhattan, Salt Lake City, and in several other jurisdictions.

7. Conclusion

We set out to learn about police operations by posing the question: What happens after arrest? What happens after arrest, most often, is that the prosecutor drops the case. This circumstance prevails in Washington, D.C., and appears to be the norm in many other jurisdictions as well.[1]

While the costs to society of this phenomenon appear to be extremely high, the facts suggest that in most of the cases that were dropped it was appropriate both for the police to make the arrest and for the prosecutor to either refuse it at the initial court appearance or dismiss it after initially accepting it. The primary explanation for this apparent paradox seems to be that the standard of evidence for proof of guilt at trial is considerably higher than that for making the arrest.[2] Another explanation, which applies to those cases with evidence that may be sufficient to convict the arrested person, is that the prosecutor appears to drop certain cases because they do not warrant the attention deserved by more serious cases in the queue.

It is especially clear that the police have much to do with what happens after arrest. When the arresting officer manages to recover tangible evidence, the prosecutor is considerably more likely to convict the defendant. When the police manage to bring more cooperative witnesses to the prosecutor, the probability of conviction is, again, significantly enhanced. When the police are able to make the arrest soon after the offense—especially in robberies, larcenies, and burglaries—tangible evidence is more often recovered and conviction is, once again, more likely.

What is less clear is the precise extent to which the police can improve the soundness of the cases they bring to the prosecutor. To what extent can the police bring arrests with more cooperative witnesses and more solid evidence than currently prevails?

The indications are that the opportunity for such improvement is substantial. This is suggested, first, by our finding that some officers reveal considerably greater ability to make arrests that lead to conviction than others. Among the 2,418 Metropolitan Police Department officers who made arrests in 1974, 15 percent (368 officers) made half of all the arrests that led to conviction. And while the officer's assignment and an element of randomness appear to be factors behind the differences that we find among officers in their ability to make arrests that lead to conviction, we find substantial differences among officers that are not explained by the effects of assignment and randomness alone. That some of the officers are especially conscientious about making arrests that lead to conviction is suggested by other evidence as well.[3]

The opportunity for police to improve the quality of the arrests brought to the prosecutor has been indicated also in a recent study by the Vera Institute. While the primary focus of that study was on the court rather than the police, the authors did conclude that evidence brought to the court by the police is often inadequate:

> The net conclusion drawn from these data is that although court congestion is an important factor, particularly as it affects defendants held in pretrial detention, and although the criminal process certainly suffers weaknesses that should be corrected, a more fundamental cause of high rates of deterioration in felony arrests as they proceed through court lies in the nature of the cases themselves. Often the facts prove insufficient to sustain the original felony charges.[4]

To the extent that current police practice in general is reflected in the District of Columbia, it is apparent that the police are taking bold measures to improve the convictability of their arrests. They have begun to move beyond a preoccupation with arrest statistics as a measure of the performance of individual officers, units, and the department. They have begun to achieve effective working relationships with the prosecutor and other components of the criminal justice system—an unprecedented accomplishment within a system that has repeatedly been characterized as fragmented. Out of this cooperation, they have worked out some ingenious methods of apprehending offenders and obtaining solid evidence. And they have demonstrated an extraordinary willingness to support the analysis of their operations by outsiders.

This is not to suggest that there is little room for further progress. On the contrary, much remains to be done on at least three different fronts—the police, the other components of the criminal justice system, and the criminal justice research community.

The police can surely best serve their own interests by continuing to expand their support of the larger system of which they are a crucial part. They can begin with a shift from an emphasis on statistics about arrests and offense clearances to an emphasis on making *good* arrests. It is noteworthy that the MPD officers who made less than 20 arrests in 1974 had a higher conviction rate (30 percent) than the 111 officers who made 20 or more arrests (27 percent). An expanded police perspective could manifest itself interimly as improvements in training and feedback to officers whose arrests seldom lead to conviction—feedback about the importance of recovering tangible evidence and bringing cooperative witnesses to the prosecutor. Better arrests will surely make the prosecutor's job easier and make the system more cohesive. Ultimately, the objectives of the police are no different from those of the criminal justice system as a whole.

The other major components of the criminal justice system—prosecutor, court, and corrections—could hardly do better than to follow the example of the police by expanding their perspectives of their respective roles. It is all too common to hear members of each component speak of other members of the criminal justice system as "they" rather than "we."

The criminal justice research community can contribute in several ways. One way is to establish which kinds of tangible evidence and evidence-processing techniques are most effective for each type of criminal situation. We now have systematic empirical results that reveal the importance of tangible evidence, but we do not know the relative importance of recovered weapons, stolen property, articles of clothing, hair, blood, and so on, under each category of crime; nor do we know which of the evidence-processing techniques produce results that most often lead to conviction.

Further research contributions are yet to be made regarding ways of enhancing witness cooperation and shortening the time span between the offense and the arrest—particularly that component of the span between the offense and the notification of the police.

An especially challenging research issue consists of determining effective ways for the police to deal with criminal episodes among nonstrangers, without resorting to arrest. These episodes have been found to consume a substantial amount of prosecution and court resources with little apparent benefit.[5] It would seem that a set of police procedures could be devised which, while they might require more police resources, would be less costly on the whole to society than the procedures under our current system.[6]

Finally, additional work remains to develop specific personnel training, promotion, and placement techniques that are effective in producing police officers who make arrests that lead to conviction. It seems totally within our means to determine ways of transforming the level of performance of today's few "supercops" into the standard for tomorrow's ordinary police officer.

Notes

1. A lead article in the *Los Angeles Times* began: "More than half of the felony arrests recently made in five jurisdictions across the nation, including Los Angeles, were refused by prosecutors or dismissed after charges had been filed, newly developed data disclosed." Ronald J. Ostrow, "Most Felony Cases Dropped," *Los Angeles Times*, April 25, 1977, pp. 1, 12. The other four jurisdictions were Washington, D.C.; Salt Lake; New Orleans; and Cobb County, Georgia. Detroit's prosecutor has also been reported to have dismissed 49 percent of all cases accepted at initial screening, so that the sum of refusals and dismissals in that jurisdiction is also well over half. Patrick Oster, *Chicago Sun-Times*, "A Look at Why Court Cases Are Dropped," April 25, 1977, p. 4.

2. This explanation takes the standards of proof for arrest and conviction as given. A more vexing question is whether or not society can reduce the total cost of justice by altering these standards.

3. Officers who have revealed a conspicuous ability to make arrests that lead to conviction have been reported to be especially conscientious about collecting solid evidence for the prosecutor. For example, see Ronald J. Ostrow, "Few Officers Make Most of Arrests 'That Stick'," *Los Angeles Times*, May 16, 1977, pp. 1, 18.

4. Vera Institute of Justice, *Felony Arrests: Their Prosecution and Disposition in New York City's Courts* (New York, 1977), p. xv.

5. *Ibid.* According to Vera (p. xv):

> Because our society has not found adequate alternatives to arrest and adjudication for coping with interpersonal anger publicly expressed, we pay a price. The price includes large court caseloads, long delays in processing and, ultimately, high dismissal rates. These impose high financial costs on taxpayers and high personal costs on defendants and their families. The public pays in another way, too. The congestion and drain on resources caused by an excessive number of such cases in the courts weakens the ability of the criminal justice system to deal quickly and decisively with the "real" felons, who may be getting lost in the shuffle. The risk that they will be returned to the street increases, as does the danger to law-abiding citizens on whom they prey.

6. Nonpolice intervention methods would appear also to be a feasible alternative to our current procedures. These might take the form of neighborhood justice centers that would attempt to resolve complaints involving quasi-criminal episodes between members of the same family, neighbors, and other acquaintances. Support for such centers has been indicated in several sources, including the National Institute of Law Enforcement and Criminal Justice monograph, *Citizen Dispute Settlement* (Washington, D.C.: Government Printing Office, 1974); American Bar Association, *Report of the Pound Conference Follow-Up Task Force* (August 1975); and Blackstone Associates, *Philadelphia 4-A (Arbitration As An Alternative) Project* (Washington, D.C., 1974).

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